

EXHIBIT C

REDACTED

EXHIBIT D

FAX 610-933-9300
 MFP@IPLaw-Petock.com
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LAW OFFICES OF
MICHAEL F. PETOCK
 INTELLECTUAL PROPERTY ATTORNEY
 46 THE COMMONS AT VALLEY FORGE
 1220 VALLEY FORGE ROAD
 POST OFFICE BOX 856
 VALLEY FORGE, PENNSYLVANIA 19482-0856

PATENT, TRADEMARK
 AND
 RELATED MATTERS

TELEPHONE
 610-935-8600

November 18, 2004

Kurt and Donna Van Scoy
 Diamond Mine of Delaware, Inc.
 1117 Churchmans Road
 Newark, DE 19713

CERTIFIED MAIL
 Return Receipt Requested

Re: Infringement of Service Marks and Trademark of
 Mr. Wayne Van Scoy - U.S. Service Mark Reg. No.
 1,140,958 for the Mark "VAN SCOY DIAMOND MINE"
 for Retail Jewelry Store Services in International Class 42
 and Trademark Reg. No. 1,140,711 for the Mark
 "VAN SCOY DIAMOND MINE" for Jewelry and
 Precious Stones in International Class 14
My File: 443-12

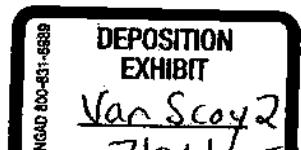
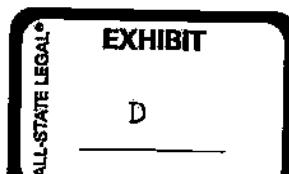
Dear Mr. and Mrs. Van Scoy:

I represent Mr. Wayne Van Scoy in intellectual property matters.

My client owns the rights in the above-identified service mark and trademark registrations. I am enclosing a copy of each of the above-identified registrations for your convenience.

It is hereby demanded that you immediately cease and desist from infringement of the above-identified federally registered service mark and trademark of Mr. Wayne Van Scoy and account for past infringement. You must immediately stop using any form of the name "VAN SCOY DIAMOND MINE" and confusing similar variations thereof on the name of your store, in advertising, in commercials, on stationary, boxes, bags, literature, internet website and any other place where you are using the mark in connection with your business. It is important that you stop all use immediately as Mr. Wayne Van Scoy intends to have a franchise moving into your area.

The Trademark Laws provide for significant remedies including, but not limited to, recovery of your profits, damages multiplied by three, an injunction and the payment of Mr. Wayne Van Scoy's attorney's fees.



Kurt and Donna Van Scoy

-2-

November 18, 2004

A response to this letter is due within ten (10) days giving assurance that infringement will cease.

This letter is written without prejudice to any position that Mr. Wayne Van Scoy may take should litigation prove necessary.

If I do not receive a response from you, it will be understood that the foregoing is correct.

Sincerely,

MICHAEL F. PETOCK

Certified Mail No. 7099 3400 0003 9206 3270

CC: Mr. Wayne Van Scoy

MFP/rks
KVanSc11.014

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
Article Sent To:	
Postage	\$.60
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.65
Postmark Here	
Name (Please Print Clearly to be completed by mailer) Kurt + Donna Van Scoy - Diamond Mine of DE, Inc. Street, Apt. No., or PO Box No. 1117 Churchmans Road City, State, ZIP+4 Newark, DE 19713	
PS Form 3811, July 1999 See Reverse for Instructions	

Is your RETURN ADDRESS completed on the reverse side?	
SENDER:	
<input type="checkbox"/> Complete items 1 and/or 2 for additional services. <input type="checkbox"/> Complete items 3, 4a, and 4b. <input type="checkbox"/> Print your name and address on the reverse of this form so that we can return this card to you. <input type="checkbox"/> Attach this form to the front of the mailpiece, or on the back if space does not permit. <input type="checkbox"/> Write "Return Receipt Requested" on the mailpiece below the article number. <input type="checkbox"/> The Return Receipt will show to whom the article was delivered and the date delivered.	
3. Article Addressed to: Kurt and Donna Van Scoy Diamond Mine of Delaware, Inc. 1117 Churchmans Road Newark, DE 19713	
4a. Article Number: 7099 3400 0003 9206 3270	
4b. Service Type: <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD	
5. Received By: (Print Name) Michael F. Petock	
6. Signature Addressed to Agent: X Michael F. Petock	
7. Date of Delivery: 11/20/04	
8. Addressee's Address (Only if requested and fee is paid) Domestically Return Receipt	
I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	

Thank you for using Return Receipt Service.

Int. Cl.: 42

Prior U.S. Cl.: 101

Reg. No. 1,140,958

United States Patent and Trademark Office Registered Oct. 28, 1980
10 Year Renewal/New Cert. Renewal Term Begins Oct. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER
REGISTRATION ASSIGNED

VAN SCOY DIAMOND MINE

VAN SCOY, WAYNE (UNITED STATES
CITIZEN)
154 MUNDY STREET
WILKES-BARRE, PA 18702, BY ASSIGN-
MENT VAN SCOY DIAMOND MINES,
INC. (PENNSYLVANIA CORPO-
RATION) EDWARDSVILLE, PA

APPLICANT MAKES NO CLAIM TO
THE EXCLUSIVE USE OF THE WORD
"DIAMOND" APART FROM THE MARK
AS SHOWN IN THE DRAWINGS, BUT
RESERVES ANY COMMONLAW RIGHTS
IT MAY HAVE THEREIN.

FOR: I RENDERING OF TECHNICAL
AID AND ASSISTANCE IN THE ESTAB-
LISHMENT AND/OR OPERATION OF
RETAIL JEWELRY STORES; IN CLASS
35 (U.S. CLS. 100, 101 AND 102).
FIRST USE 5-26-1977; IN COMMERCE
5-26-1977.

FOR: RETAIL JEWELRY STORE SER-
VICES, IN CLASS 42 (U.S. CL. 101).
FIRST USE 11-0-1976; IN COMMERCE
3-11-1977.
SER. NO. 73-169,527, FILED 5-8-1978.



*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Oct. 2, 2001.*

Nicholas P. Godici

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Int. Cl.: 14

Prior U.S. Cl.: 28

Reg. No. 1,140,711

United States Patent and Trademark Office

Registered Oct. 21, 1980

10 Year Renewal/New Cert.

Renewal Term Begins Oct. 21, 2000

TRADEMARK
PRINCIPAL REGISTER
REGISTRATION ASSIGNED

VAN SCOV DIAMOND MINE

VAN SCOV, WAYNE (UNITED STATES
CITIZEN)
154 MUNDY STREET
WILKES-BARRE, PA 18702, BY ASSIGN-
MENT VAN SCOV DIAMOND MINES,
INC. (PENNSYLVANIA CORPORA-
TION) EDWARDSVILLE, PA.
APPLICANT MAKES NO CLAIM TO
THE EXCLUSIVE USE OF THE WORD
"DIAMOND" APART FROM THE MARK
AS SHOWN, BUT RESERVES ANY COM-
MON LAW RIGHTS IT MAY HAVE
THEREIN.

FOR: JEWELRY AND PRECIOUS
STONES, IN CLASS 14 (U.S. CL. 28).

FIRST USE 3-11-1977; IN COMMERCE
3-11-1977.

SER. NO. 73-169,526, FILED 5-8-1978.



*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Oct. 2, 2001.*

Nicholas P. Gallo

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

EXHIBIT E

REDACTED

EXHIBIT F



In the Matter Of:

Van Scoy

v.

Van Scoy Diamond Mine of Delaware, Inc.

C.A. # 05-108 (KAJ)

Transcript of:

Donna Van Scoy

September 19, 2005

Wilcox & Fetzer, Ltd.
Phone: 302-655-0477
Fax: 302-655-0497
Email: lhertzog@wilfet.com
Internet: www.wilfet.com



Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY,
Plaintiff,
v.
VAN SCOY DIAMOND MINE OF
DELAWARE, INC., KURT VAN SCOY)
AND DONNA VAN SCOY,
Defendants.

Civil Action
No. 05-108 (KAJ)

Videotape deposition of DONNA VAN SCOY taken pursuant to notice at the law offices of Ashby & Geddes, 17th floor, 222 Delaware Avenue, Wilmington, Delaware, beginning at 9:58 a.m. on September 19, 2005, before Lucinda M. Reeder, Registered Diplomate Reporter and Notary Public.

APPEARANCES:

MICHAEL F. PETOCK, ESQ.
MICHAEL C. PETOCK, ESQ.
PETOCK & PETOCK, LLC
222 Delaware Avenue, 17th Floor
Wilmington, Delaware 19801
for the Plaintiff,

CHARLES N. QUINN ESQ.
FOX ROTHSCHILD LLP
2000 Market Street - Tenth Floor
Philadelphia, PA 19103-3291
for the Defendants.

ALSO PRESENT:

WAYNE VAN SCOY
KURT VAN SCOY
CAROL FEENEY, DISCOVERY VIDEO SERVICES

WILCOX & FETZER, LTD.
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477

<p style="text-align: right;">Page 2</p> <p>1 THE VIDEOGRAPHER: This is the videotaped 2 deposition of Donna Van Scoy, taken by the plaintiff 3 in the matter of Wayne Van Scoy versus Van Scoy 4 Diamond Mine of Delaware, Incorporated, Kurt Van Scoy, 5 and Donna Van Scoy, Civil Action No. 05-108- (KAJ) 6 held in the offices of Ashby & Geddes, 222 Delaware 7 Avenue, Wilmington, Delaware on September 19th, 2005 8 at approximately 9:58 a.m.</p> <p>9 The court reporter is Cindy Reeder, from 10 the firm of Wilcox & Fetzer. My name is Carol Feeley, 11 a video specialist from Discovery Video Services, in 12 association with Wilcox & Fetzer.</p> <p>13 Counsel will introduce themselves, and the 14 reporter will swear in the witness.</p> <p>16 MR. MICHAEL F. PETOCK: I'm Michael F. 17 Petock, for the plaintiff.</p> <p>18 MR. QUINN: I'm Charles M. Quinn, for the 19 defendants.</p> <p>20 MR. MICHAEL C. PETOCK: Michael C. Petock, 21 for plaintiff.</p>	<p style="text-align: right;">Page 4</p> <p>1 Anything else? 2 MR. QUINN: No. That's fine by me. 3 MR. MICHAEL F. PETOCK: Okay. 4 MR. QUINN: She can sign before any notary 5 public.</p> <p>6 MR. MICHAEL C. PETOCK: Do you want to 7 stipulate to objections, Dad?</p> <p>8 MR. MICHAEL F. PETOCK: Well, all 9 objections are reserved until the time of trial except 10 to the form of the question.</p> <p>11 MR. QUINN: That's fine.</p> <p>12 MR. MICHAEL F. PETOCK: The same 13 stipulation continues.</p> <p>14 BY MR. MICHAEL F. PETOCK:</p> <p>15 Q. Mrs. Van Scoy, I am going to ask you some 16 questions today. The court reporter is taking down 17 everything that is said. Do you understand that?</p> <p>18 A. Yes.</p> <p>19 Q. And you understand you are under oath and you 20 have an obligation to tell the truth?</p> <p>21 A. Yes.</p> <p>22 Q. You also understand that you are not to consult 23 with your counsel during the deposition with respect 24 to any questions that have been asked or anticipated</p>
<p style="text-align: right;">Page 3</p> <p>1 DONNA VAN SCOY, 2 the witness herein, having first been 3 duly sworn on oath, was examined and 4 testified as follows:</p> <p>5 MR. QUINN: I would like to make a 6 statement before we start. The notice of deposition 7 for Mrs. Van Scoy asked that she bring and produce any 8 documents that have not already been produced for the 9 plaintiff that she reviewed in preparation for this 10 deposition. And I state to you that there are none.</p> <p>11 MR. MICHAEL F. PETOCK: Thank you.</p> <p>12 BY MR. MICHAEL F. PETOCK:</p> <p>13 Q. Mrs. Van Scoy, I am going to ask you some 14 questions today.</p> <p>15 MR. QUINN: Excuse me. Are we going to 16 have a stipulation as to read, signing?</p> <p>17 MR. MICHAEL F. PETOCK: If you want to, 18 yes.</p> <p>19 MR. QUINN: We had it before. I think 20 it's appropriate.</p> <p>21 MR. MICHAEL F. PETOCK: So she's going to 22 reserve the right to read and sign you are saying?</p> <p>23 MR. QUINN: Yes.</p> <p>24 MR. MICHAEL F. PETOCK: Fine.</p>	<p style="text-align: right;">Page 5</p> <p>1 to be asked?</p> <p>2 A. Yes.</p> <p>3 Q. Do you understand that?</p> <p>4 A. Yes.</p> <p>5 Q. Do you understand that you have to answer the 6 questions unless your counsel instructs you not to 7 answer the question.</p> <p>8 A. Mm-hmm.</p> <p>9 Q. Can you tell me: How old are you?</p> <p>10 A. 42.</p> <p>11 Q. And do you have any education beyond high 12 school?</p> <p>13 A. Yes.</p> <p>14 Q. What is that?</p> <p>15 A. An X-ray technician.</p> <p>16 Q. When did you -- did you get a certificate as an 17 X-ray technician?</p> <p>18 A. Yes. A certificate. I have four years of 19 schooling after high school.</p> <p>20 Q. Where did you get that certificate from?</p> <p>21 A. Connecticut.</p> <p>22 Q. Where in Connecticut?</p> <p>23 A. I don't remember the name right now.</p> <p>24 Q. Where did you grow up at?</p>

<p style="text-align: right;">Page 6</p> <p>1 A. Nanticoke, Pennsylvania. 2 Q. And how far is that from Wilkes-Barre? 3 A. Ten miles. 4 Q. Were you familiar with Van Scoy Diamond Mine 5 Stores at the time you grew up in Wilkes-Barre? 6 A. Yes. 7 Q. Was there radio advertising on the radio by 8 Tommy Van Scoy, Sr.? 9 A. Yes. 10 Q. Did you consider the name to have been well 11 known at the time you were growing up in Wilkes-Barre? 12 A. Yes. 13 Q. What is your work experience after high school? 14 A. My work experience. I went to school and 15 became an X-ray technician. 16 Q. Did you work as an X-ray technician? 17 A. Yes. 18 Q. For how long? 19 A. Ten years. 20 Q. Did you hold any other jobs? 21 A. No. 22 Q. Did you ever work in a Van Scoy Diamond Mine 23 Store? 24 A. I work in one now.</p>	<p style="text-align: right;">Page 8</p> <p>1 open the store. I don't really know that percentage. 2 Q. Do you know what your percentage is today? 3 A. No, I do not. 4 Q. You are part owner of the store? 5 A. I guess I would say, 50 percent. We do 6 everything half and half. 7 MR. QUINN: I am sure Mr. Petock does not 8 want you to guess. Correct? 9 Q. Yes. You give us your best information. 10 A. Okay. 11 Q. What are your -- do you work in the store 12 Van Scoy Diamond Mine of Delaware, Inc., right now? 13 A. Yes. 14 Q. I'll refer to it as "Van Scoy Diamond Mine 15 store in Delaware." Okay? 16 A. Okay. 17 Q. What are your job duties there? 18 A. I pay the receipts and I pay the bills. 19 Q. What do you mean when you say you do the 20 receipts? 21 A. I open the receipts every day and do -- put the 22 money in the checkbook, and then I pay the bills in 23 turn. 24 Q. These receipts are payments coming in from</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. I'm sorry. Did you ever work in a Van Scoy 2 diamond store before -- strike that. When did you 3 open a store Van Scoy Diamond Mine of Delaware, Inc.? 4 A. My husband opened it in November of '94. 5 Q. Did you also open it as part of the 6 corporation? 7 A. I wasn't there until a year and a half later. 8 Q. Did you ever work in a Van Scoy Diamond Mine 9 store prior to November of 1994? 10 A. No. 11 Q. Did you invest some money in the opening of the 12 Van Scoy Diamond Mine store in Delaware? 13 A. Yes. 14 Q. How much did you invest? 15 A. 20,000. 16 Q. Where did that money come from? 17 A. I took out two consecutive loans at the same 18 time. 19 Q. In your name? 20 A. Yes. 21 Q. And at that time, you became a percentage owner 22 in Van Scoy Diamond Mine of Delaware, Inc. Is that 23 correct? 24 A. I don't know. I just gave my husband money to</p>	<p style="text-align: right;">Page 9</p> <p>1 customers? 2 A. Payments and sales, yes. 3 Q. What do you mean by "sales"?</p> <p>4 A. Anything that is sold. Anything that is 5 documented from a customer. 6 Q. So that's sales in the store and sales -- and 7 receipts that come in through the mail. Is that 8 correct? 9 A. There are none in the mail. It's just usually 10 people coming in. 11 Q. Do you have any other job responsibilities at 12 Van Scoy Diamond Mine in Delaware? 13 A. No. I'm very part-time. 14 Q. How much time do you spend at the store? 15 A. Four hours a day, maybe if I'm there. Maybe 16 four days a week. 17 Q. What days a week do you work? 18 A. Usually Tuesday through Friday. 19 Q. Have these responsibilities, job duties changed 20 from 1994? 21 A. No. 22 Q. From 1994 to present, you were always doing the 23 same thing, working part-time and only handling the 24 receipts and deposits. Is that correct?</p>

	Page 10	Page 12
1	A. Correct.	1 many customers come in the door.
2	Q. Does your husband Kurt Van Scoy have any education beyond high school?	2 Q. And when does the Christmas period end as far as your selling is concerned?
3		3
4	A. No.	4 A. Christmas eve.
5	Q. When did you meet Kurt Van Scoy?	5 Q. Do you do anything with respect to keeping track of finances?
6	A. 1992.	6
7	Q. Where did you meet him?	7 A. No.
8	A. The Woodlands.	8 Q. Who does that?
9	Q. What is that?	9 A. Our accountant.
10	A. A nightclub.	10 Q. How does he do that?
11	Q. And where is that?	11 A. He comes to our store twice a month and does the bookkeeping.
12	A. In Wilkes-Barre.	12
13	Q. And has your relationship with Kurt been good?	13 Q. What does he use to do the bookkeeping?
14	A. Yes.	14 A. My computer.
15	Q. Do you communicate freely on everything?	15 Q. What's on your computer?
16	A. Yes.	16 A. The invoices that go in and the checks that come out.
17	Q. Do you communicate freely with respect to the operation of Van Scoy Diamond Mine store in Delaware?	17
18		18 Q. Who is your accountant?
19	A. Not in a business sense; just how was our day.	19 A. James Bellenger.
20	Some days are very stressful.	20 Q. He is located where?
21	Q. What about decisions on when to advertise and how to advertise?	21 A. In Bear, Delaware.
22		22 Q. Does the accountant give you back a summary each month?
23	A. He solely does the advertising.	23
24	Q. You don't give him any communication or input	24 A. No.
	Page 11	Page 13
1	on that?	1 Q. Does the accountant give you anything back?
2	A. I think it's expensive and I'd rather not.	2 A. No. He does everything.
3	Q. Do you discuss like, it's good to advertise before Christmas or something like that?	3 Q. What do you mean "he does everything"?
4		4 A. I don't need a summary because he does the taxes. So he does what he needs to do on my computer and then follows up with it every month and at the end of the year.
5	A. No, I don't.	5
6	Q. What about the layout of the ads, do you get involved in that at all?	6
7		7
8	A. No.	8 Q. At some point in time, you changed the name of
9	Q. Do you wait on customers?	9 your website address from Van Scoy Diamond Mine.com to
10	A. At Christmas time, yes.	10 Van Scoy Diamonds of Delaware.com. Do you know when
11	Q. Do you wait on customers at any other time of the year?	11 you did that?
12		12 A. No.
13	A. Not usually.	13 Q. Was there an invoice for doing that?
14	Q. How would you define "Christmas time"?	14 A. No. The only invoice I get is from the company itself.
15	A. Our busiest time of the year.	15
16	Q. But from when to when would that extend?	16 Q. What company is that?
17	A. I would say, it depends every year, but mostly two weeks prior.	17 A. I believe it was Trusion.
18		18 Q. Trusion. T-R-U-S-I-O-N?
19	Q. So in November, you wouldn't be waiting on customers?	19 A. Mm-hmm. Yes.
20		20 Q. What do they do?
21	A. Not necessarily.	21 A. I am not sure. I didn't have anything to do with the Internet.
22	Q. What do you mean by "not necessarily"?	22
23	A. If someone were to be on vacation, I may have to cover. We usually have enough staff to cover how	23 Q. You don't recall ever getting an invoice that you had to pay for making that change?
24		24

<p style="text-align: right;">Page 14</p> <p>1 A. No. It was just a monthly Internet fee. 2 Q. Do you know what Scoy Development, S-C-O-Y- 3 D-E-V is? 4 A. No. 5 Q. Have you ever seen that before? 6 A. Never heard of it. 7 Q. Why did you decide to open a store in 8 Wilmington, Delaware? 9 MR. QUINN: Objection to the form of the 10 question. I don't think the foundation for that has 11 been established. 12 Q. You can answer the question. He objected, but 13 you still have to answer the question. 14 A. Why, I don't really remember. 15 Q. Why didn't you open one in Wilkes-Barre? 16 A. Because there was already one there. 17 Q. Did the same thing apply for Allentown? 18 A. I don't know. I don't know. Sorry. 19 Q. And the store that was opened in Wilmington at 20 1117 Churchmans Road or street, that was the same 21 location that Tommy Van Scoy previously had a store 22 there. Is that correct? 23 MR. QUINN: Objection to the form of the 24 question. The question presumes a store was opened in</p>	<p style="text-align: right;">Page 16</p> <p>1 have this marked as Plaintiff's Exhibit 17. 2 (Plaintiff's Exhibit No. 17 was marked for 3 identification.) 4 BY MR. MICHAEL F. PETOCK: 5 Q. I show you what's been marked as Plaintiff's 6 Exhibit 17. Can you identify that? 7 A. It's a lease agreement. 8 Q. For what is the lease agreement? 9 A. To lease the property. 10 Q. What property? Is it the lease for your store? 11 A. Yes. 12 Q. That's Van Scoy Diamond Mine of Delaware, Inc. 13 Is that correct? 14 A. Yes. 15 Q. And I direct your attention to the fourth page 16 of the document, which is identified in the lower 17 right-hand corner as D 000754. Do you see that? 18 A. Min-hmm. 19 Q. Isn't that -- is that your signature on there, 20 Donna Van Scoy? 21 A. Yes. 22 Q. That's a lease guarantee. Isn't that correct? 23 A. Yes. 24 Q. It's for the location of your Van Scoy Diamond</p>
<p style="text-align: right;">Page 15</p> <p>1 Wilmington. I think that's actually not actually 2 correct. 3 Q. Can you answer the question? 4 A. I forgot it now. I'm sorry. 5 MR. QUINN: You can have it read back if 6 you'd like. 7 Q. You opened a store at 1117 Churchmans Road, is 8 it? 9 A. Yes. 10 Q. You opened that in about November of 1994. Is 11 that correct? 12 A. Yes. 13 Q. And at that same location, about a year and a 14 half year earlier Tommy Van Scoy, Sr. had operated a 15 store there. Is that correct? 16 A. I was told that. 17 Q. Who told you that? 18 A. My father-in-law and my husband. 19 Q. Your father-in-law was Tommy Van Scoy, Sr.? 20 A. Yes. 21 Q. You signed a personal guarantee on the lease on 22 that property when you opened it. Isn't that correct? 23 A. I don't remember. 24 MR. MICHAEL F. PETOCK: I would like to</p>	<p style="text-align: right;">Page 17</p> <p>1 Mine store. Is that not correct? 2 A. Yes. 3 Q. That was in October of 1994? 4 A. Yes. 5 Q. Were you an officer or director of Van Scoy 6 Diamond Mine of Delaware, Inc.? 7 A. Secretary. 8 Q. When you say you're secretary? 9 A. That's what it says on the form. 10 Q. On what form? 11 A. The corporation form. 12 MR. MICHAEL F. PETOCK: I guess we 13 haven't received that form, Charlie. I'd ask that you 14 produce it. 15 BY MR. MICHAEL F. PETOCK: 16 Q. What do you do as secretary of the corporation? 17 A. As I told you before, receipts and the bills. 18 Q. Do you do anything else -- 19 A. No. 20 Q. -- in connection with being secretary of the 21 corporation? 22 A. Well, I do sales and take out the trash as 23 well. 24 Q. Have you attended any corporate meetings?</p>

Page 18

Page 20

1 A. No.
 2 Q. Have you ever attended any corporate meetings?
 3 A. I don't remember.
 4 MR. MICHAEL F. PETOCK: I would like to
 5 have this marked as Plaintiff's Exhibit 18.
 6 (Plaintiff's Deposition Exhibit No. 18 was
 7 marked for identification.)
 8 BY MR. MICHAEL F. PETOCK:
 9 Q. I show you what's been marked as Plaintiff's
 10 Exhibit 18. Do you recognize that?
 11 A. No.
 12 Q. Do you know what it is?
 13 A. Minutes of annual meeting of shareholders and
 14 directors.
 15 Q. Of what corporation?
 16 A. Van Scoy.
 17 Q. Diamond Mine of Delaware, Inc. Isn't that
 18 correct?
 19 A. Correct.
 20 Q. It says there that the only shareholder present
 21 was Kurt Van Scoy, is that correct, in the lower
 22 portion of the page?
 23 A. Yes.
 24 Q. Those are the minutes for 2005, is that

1 that?
 2 A. It looks like the same thing as the prior one.
 3 Q. That's minutes for Van Scoy Diamond Mine of
 4 Delaware, Inc., the annual meeting?
 5 A. Yes.
 6 Q. But it's for 2004. Is that correct?
 7 A. That's what it says, yes.
 8 Q. Again, you were not present at the meeting. Is
 9 that correct?
 10 A. Correct.
 11 Q. Again on the second page, you are nominated and
 12 were unanimously elected to be vice-president?
 13 A. No, I was not.
 14 Q. You were not?
 15 A. I am not the vice-president.
 16 Q. You are the secretary?
 17 A. I am the secretary.
 18 Q. Even though the minutes say you are
 19 vice-president?
 20 A. It must have been a mistake.
 21 MR. MICHAEL F. PETOCK: I would like to
 22 have this marked as P-20.
 23 (Plaintiff's Exhibit No. 20 was marked for
 24 identification.)

Page 19

Page 21

1 correct, the first paragraph?
 2 A. I guess. I don't know.
 3 Q. That's what it says, isn't that correct, the
 4 second line, the first paragraph?
 5 A. I guess.
 6 Q. Is that correct?
 7 A. If that's what it says.
 8 Q. Isn't it true that on page 2 you were appointed
 9 as vice-president or elected as vice-president?
 10 A. No.
 11 Q. I direct your attention to the second group of
 12 names listing. It says, "President, Kurt Van Scoy,
 13 vice-president, Donna Van Scoy." Do you see that?
 14 A. Yes.
 15 Q. Isn't it true that you are vice-president of
 16 the corporation?
 17 A. I never heard of that before.
 18 MR. MICHAEL F. PETOCK: I would like to
 19 have this marked as Plaintiff's Exhibit 19.
 20 (Plaintiff's Exhibit No. 19 was marked for
 21 identification.)
 22 BY MR. MICHAEL F. PETOCK:
 23 Q. I show you what's been marked as Plaintiff's
 24 Exhibit 19, P-19, Plaintiff's 19. Can you identify

1 BY MR. MICHAEL F. PETOCK:
 2 Q. I show you what's been marked as Plaintiff's
 3 Exhibit 20. Can you identify that?
 4 A. I guess it's the same thing again for 2003.
 5 Q. And, again, does it show that you were not
 6 present at the meeting?
 7 A. Yes.
 8 Q. And, again, does it show that you were elected
 9 to be vice-president of the corporation?
 10 A. My name is listed as vice-president, but I am
 11 secretary. On every form, income tax form, I am
 12 secretary. This must be a mistake at my accountant's
 13 office.
 14 MR. MICHAEL F. PETOCK: Charlie, we
 15 request that you provide us with all documents that
 16 show Donna Van Scoy to be secretary of the
 17 corporation.
 18 MR. MICHAEL F. PETOCK: Would you mark
 19 this as Plaintiff's Exhibit 21?
 20 (Plaintiff's Deposition Exhibit No. 21 was
 21 marked for identification.)
 22 BY MR. MICHAEL F. PETOCK:
 23 Q. I show you what's been marked as Plaintiff's
 24 Exhibit 21. Can you identify that?

<p style="text-align: right;">Page 22</p> <p>1 A. Shareholders and directors. 2 Q. Is it the minutes of the annual meeting of 3 shareholders and directors for Van Scy Diamond Mine 4 of Delaware, Inc. for the year 2002? 5 A. Yes. 6 Q. It shows you were not present at the meeting. 7 Is that correct? 8 A. Correct. 9 Q. On page 2, it shows again you were elected to 10 be vice-president of the corporation. Is that 11 correct? 12 A. As far as I know, I am the secretary. 13 Q. But the document says you are vice-president. 14 Is that correct? 15 A. It does say that, yes. 16 Q. Do you have any idea how what you characterize 17 as a mistake happened? 18 A. No, I don't. 19 Q. And to your knowledge, you don't recall 20 attending any corporate meetings? 21 A. No. 22 Q. Even though you are 50 percent stockholder? 23 A. Yes.</p>	<p style="text-align: right;">Page 24</p> <p>1 shareholders and directors of Van Scy Diamond Mine of 2 Delaware, Inc. for the year 2000. Is that correct? 3 A. Yes. 4 Q. It shows you were present at that meeting. Is 5 that correct? 6 A. I don't remember. 7 Q. Do you recall being at any meetings at the 8 offices of Ralph V. Estep? 9 A. No. 10 Q. Again, on page 2, it shows you being elected as 11 vice-president of the corporation. Is that correct? 12 A. Yes. 13 Q. But, again, you say that was an error and that 14 you were secretary. Is that correct? 15 A. Yes. 16 Q. What forms have you listed as secretary? 17 A. What forms do I have? 18 Q. What forms are you referring to that list you 19 as secretary of the corporation? 20 A. When we first started it. That's the only 21 thing I could think of that would say that, the very 22 first form. The one that would be Cayman 23 incorporated. 24 Q. You think the articles of incorporation say</p>
<p style="text-align: right;">Page 23</p> <p>1 have this marked as Plaintiff's Exhibit 22. (Plaintiff's Exhibit No. 22 was marked for identification.) BY MR. PETOCK: Q. Can you identify Plaintiff's Exhibit 22? A. Shareholders meeting, 2001. Q. Of the corporation Van Scy Diamond Mine of Delaware, Inc. Isn't that correct? A. Yes. Q. And it shows, again, you were not present at the meeting. Is that correct? A. Correct. Q. On page 2, it shows also you were elected to be vice-president of the corporation? A. Yes. MR. MICHAEL F. PETOCK: Is the next number 23? (Plaintiff's Exhibit No. 23 was marked for identification.) BY MR. MICHAEL F. PETOCK: Q. I show you what's been marked as Plaintiff's Exhibit 23. Do you recognize that? A. Some minutes of a meeting. Q. It's the minutes of the annual meeting of</p>	<p style="text-align: right;">Page 25</p> <p>1 that? A. Yes. To my knowledge. Q. Take a look at Plaintiff's Exhibit P-23. Take a look at the last page, which is marked D000758. A. Mm-hmm. Q. Is that your signature on there? A. No. Q. Above the name "Donna Van Scy," is that not your signature? A. No. Q. Do you know who signed your name? A. No. Q. Do you know who wrote that signature on there? A. No. MR. QUINN: Objection. The question has been asked and answered. Q. Can you take a look at P-22, the last page? Whose signature is that? A. Kurt's. MR. QUINN: Objection. I instruct the witness to give me a second to get my objection in before you give the answer. A. Sorry. MR. QUINN: To what signature does the</p>

<p style="text-align: right;">Page 26</p> <p>1 question refer?</p> <p>2 MR. MICHAEL F. PETOCK: Well, okay. The</p> <p>3 signature above the name "Kurt Van Scoy."</p> <p>4 Q. You can answer the question now.</p> <p>5 A. Kurt Van Scoy.</p> <p>6 Q. Can I ask you to go back and take a look at</p> <p>7 P-23 again?</p> <p>8 A. Absolutely.</p> <p>9 Q. The last page, D000758. Above the name "Kurt</p> <p>10 Van Scoy" in two places, whose signature is that?</p> <p>11 A. Kurt Van Scoy.</p> <p>12 (Plaintiff's Exhibit No. 24 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. MICHAEL F. PETOCK:</p> <p>15 Q. I show you what's been marked as Plaintiff's</p> <p>16 Exhibit 24. Is that the minutes of the annual meeting</p> <p>17 of shareholders and directors of Van Scoy Diamond Mine</p> <p>18 of Delaware, Inc., for the year 1999?</p> <p>19 A. Yes.</p> <p>20 Q. It shows you were present as a shareholder at</p> <p>21 that meeting. Is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. The second page also shows that you were</p> <p>24 elected vice-president of the corporation for the</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. I show you what's been marked as Plaintiff's</p> <p>2 Exhibit 25. Is that the minutes of the annual meeting</p> <p>3 of shareholders and directors of Van Scoy Diamond Mine</p> <p>4 of Delaware, Inc. for the year 1998?</p> <p>5 A. Yes.</p> <p>6 Q. That also shows that you were present at that</p> <p>7 meeting. Is that correct?</p> <p>8 A. It says I was.</p> <p>9 Q. Were you present at that meeting?</p> <p>10 A. I don't remember.</p> <p>11 Q. On page 2, which is D000763, it shows you being</p> <p>12 elected as vice-president of the corporation. Is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. I direct your attention to page 3, which is</p> <p>16 D000764. Above the signature line "Donna Van Scoy,"</p> <p>17 is that your signature?</p> <p>18 A. No.</p> <p>19 Q. Did you authorize anyone to put your signature</p> <p>20 on that?</p> <p>21 A. I don't recall.</p> <p>22 Q. Above the -- in two places, above the signature</p> <p>23 line "Kurt Van Scoy," is that Kurt's signature?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 year. Is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. On the third page, which is D000761, there is a</p> <p>4 signature for Donna Van Scoy. Is that your signature</p> <p>5 on there?</p> <p>6 A. No.</p> <p>7 Q. Do you know who signed that?</p> <p>8 A. No.</p> <p>9 Q. Did Kurt sign that?</p> <p>10 MR. QUINN: Object. Asked and answered.</p> <p>11 She's already answered the question she doesn't know.</p> <p>12 You don't need to answer the question.</p> <p>13 Q. Did Kurt sign?</p> <p>14 A. I don't know.</p> <p>15 Q. Above the -- in two places on that same page</p> <p>16 above the signature line "Kurt Van Scoy," is that</p> <p>17 Kurt's signature?</p> <p>18 A. Yes.</p> <p>19 MR. MICHAEL F. PETOCK: I would like to</p> <p>20 have this marked as Plaintiff's Exhibit 25.</p> <p>21 (Plaintiff's Exhibit No. 25 was marked for</p> <p>22 identification.)</p> <p>23</p> <p>24 BY MR. MICHAEL F. PETOCK:</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Did you ever attend a corporate meeting at a</p> <p>2 lawyer's name of Aregood in Wilkes-Barre?</p> <p>3 A. I believe so.</p> <p>4 Q. Do you believe that would have been at the 1996</p> <p>5 meeting?</p> <p>6 A. I don't remember.</p> <p>7 Q. Do you recall being at any meeting in</p> <p>8 Mr. Aregood's office in which tradename issues were</p> <p>9 discussed?</p> <p>10 A. No.</p> <p>11 Q. In 1996, were you aware that there was a</p> <p>12 proceeding started in the bankruptcy court to enjoin</p> <p>13 the use of the Van Scoy Diamond Mine?</p> <p>14 A. I knew there was a bankruptcy case. That's all</p> <p>15 I knew.</p> <p>16 Q. How did you know there was a bankruptcy case?</p> <p>17 A. Because my father-in-law was going through it.</p> <p>18 I didn't know the details.</p> <p>19 Q. Did you know that the store in Wilkes-Barre --</p> <p>20 that the Van Scoy Diamond Mine in Wilkes-Barre was</p> <p>21 padlocked by the bankruptcy court at one time?</p> <p>22 A. Yes. I was told that.</p> <p>23 Q. Did you also know at some later date they had</p> <p>24 to take the name down, they had to change their name</p>

<p style="text-align: right;">Page 30</p> <p>1 on the store in Wilkes-Barre? 2 A. As of this trial, I found that out. 3 Q. Prior to the institution of this lawsuit, you 4 didn't know about that? 5 A. No, I did not. 6 Q. Do you know where the meetings are for -- or 7 the minutes for the meetings for the corporation 8 Van Scoy Diamond Mine for '95, '96, '97? 9 A. No.</p> <p>10 MR. MICHAEL F. PETOCK: Charlie, I'd ask 11 that you produce the minutes for the meetings for the 12 years '95, '96 and '97.</p> <p>13 BY MR. MICHAEL F. PETOCK:</p> <p>14 Q. Was there ever any concern expressed by Kurt or 15 concern on your behalf about using the name "Van Scoy 16 Diamond Mine"?</p> <p>17 A. No.</p> <p>18 Q. Did Tommy Van Scoy, Sr. ever say anything to 19 you that would give you permission to use the name 20 "Van Scoy Diamond Mine"?</p> <p>21 A. Yes. He gave it to us.</p> <p>22 Q. What did he say to you?</p> <p>23 A. He said, "Good luck and I hope you guys do 24 well."</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. How did he help you out? 2 A. Actually just stood and helped make sales and 3 helped keep the girls motivated. 4 Q. Did he ever say anything about the corporation 5 Van Scoy Diamond Mine of Delaware, Inc. impliedly 6 received any permission to use the mark "Van Scoy 7 Diamond Mine"?</p> <p>8 A. I knew nothing about a mark until this trial.</p> <p>9 Q. So he was telling you good luck with the store 10 hoping you were successful. Is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And you took his comments "good luck" to mean 13 that you could use the mark in Delaware, is that 14 correct, in Newark, Delaware?</p> <p>15 A. I don't understand the question.</p> <p>16 Q. What was your understanding of the scope of the 17 permission that was granted to you, allegedly granted 18 to you by the words "good luck"?</p> <p>19 A. He allowed us to open the store and wished us 20 good luck.</p> <p>21 Q. In Newark, Delaware?</p> <p>22 A. Yes.</p> <p>23 Q. Nowhere else?</p> <p>24 A. Nowhere else was ever brought up, I guess.</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. When did he say that? 2 A. When we opened the store. No. Prior, when he 3 gave us all the showcases and the sign and everything. 4 Q. Where was he when he said that? 5 A. In my store. 6 Q. He was in your store and he was giving you the 7 showcases and the sign in your store? Is that 8 correct?</p> <p>9 MR. QUINN: Object.</p> <p>10 A. He gave Kurt the equipment. He didn't 11 physically bring it. He said, "Good luck to you." 12 That's all.</p> <p>13 Q. That's all he said?</p> <p>14 A. I am sure there was more, but I don't recall.</p> <p>15 Q. Did he ever do anything which would imply any 16 type of permission to use the name "Van Scoy Diamond 17 Mine"?</p> <p>18 A. He used to come down to our store and work when 19 we had a sale or something big or just to come down 20 and help us out.</p> <p>21 Q. When was that?</p> <p>22 A. Numerous times.</p> <p>23 Q. In what year?</p> <p>24 A. '94, '95.</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Are you aware that at some point in time 2 somebody blocked out the word "Mine" from the sales 3 receipts of Delaware Diamond Mine of Delaware, Inc.? 4 A. Yes. 5 Q. Did you ever block out of any of those? 6 A. No. 7 Q. Do you know who did it? 8 A. Yes. My employees. 9 Q. Who was that? 10 A. Pardon? 11 Q. Who was that? 12 A. Megan Rump and Karen Vayo. 13 Q. Megan Rump, R-U-M-P? 14 A. Yes. 15 Q. What was the other name? 16 A. Karen Vayo, V-A-Y-O. 17 Q. V-A-Y-L-E? 18 A. V-A-Y-O. 19 Q. How do you identify yourself on sales receipts? 20 A. "DVS." 21 Q. Did the two girls do this jointly? 22 A. Yes. 23 Q. Megan and Karen? 24 A. Yes.</p>

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<p>1 Q. When did they do that?</p> <p>2 A. After we received notification of the lawsuit.</p> <p>3 Q. You mean after you received the cease and 4 desist letter?</p> <p>5 A. Yes.</p> <p>6 Q. These sales receipts, do they come in a booklet 7 or in individual forms, multi-part individual forms?</p> <p>8 A. In a carbon copy form notebook.</p> <p>9 Q. They are in a notebook?</p> <p>10 A. Mm-hmm.</p> <p>11 Q. So you tear one off as you use it?</p> <p>12 A. Yes.</p> <p>13 Q. Were these crossed out one at a time as --</p> <p>14 A. No.</p> <p>15 Q. How many were done at one time, do you know?</p> <p>16 A. Well, the entire book.</p> <p>17 Q. Did you use any of the sales receipts with the 18 name "Mine" blocked out?</p> <p>19 A. Yes.</p> <p>20 Q. Were you upset that you were doing that?</p> <p>21 A. No.</p> <p>22 Q. Did you tell the girls Megan and Karen Rump -- 23 Megan Rump and Karen --</p> <p>24 A. Vayo.</p>	<p>1 A. No. I later said we didn't need to do it.</p> <p>2 Q. Why did you later tell her that you did not 3 need to do it?</p> <p>4 A. Under the advice of counsel.</p> <p>5 Q. What was that advice?</p> <p>6 MR. QUINN: Objection. That's privileged information. You are instructed not to answer.</p> <p>8 MR. MICHAEL F. PETOCK: If she's relying upon advice of counsel, it's not privileged.</p> <p>10 MR. QUINN: It certainly is.</p> <p>11 MR. MICHAEL F. PETOCK: It certainly is not.</p> <p>13 BY MR. MICHAEL F. PETOCK:</p> <p>14 Q. So when you first directed them to cross out 15 "Mine" from the sales receipts, did you believe that 16 crossing out "Mine" would avoid infringement?</p> <p>17 MR. QUINN: Objection to the form of the 18 question. It's leading.</p> <p>19 A. I don't understand it anyway.</p> <p>20 Q. In the beginning, you requested Megan and Karen 21 to cross out "Mine" from the sales receipt. Is that 22 correct?</p> <p>23 MR. QUINN: Objection. Misleading.</p> <p>24 A. Yes.</p>
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<p>1 Q. -- Vayo not to do it?</p> <p>2 A. I'm confused.</p> <p>3 Q. Did you tell Karen Rump -- I'm sorry. Did you 4 tell Megan Rump and Karen Vayo not to cross out the 5 word "Mine" from the sales receipts any longer?</p> <p>6 A. Yes.</p> <p>7 Q. You felt that there was no need to cross out 8 the word "Mine." Is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Did you chastise Karen and Megan for crossing 11 out the sales receipts?</p> <p>12 A. "Chastise" meaning?</p> <p>13 Q. Tell them they really did a wrong thing by 14 crossing it out, that they shouldn't take -- I presume 15 they took this on themselves and did it?</p> <p>16 MR. QUINN: Objection. There is no 17 question on the table.</p> <p>18 Q. How did it come that Karen and Megan crossed 19 out the word "Mine" on the sales receipts?</p> <p>20 A. I told them to.</p> <p>21 Q. You told them to?</p> <p>22 A. Yes.</p> <p>23 Q. And then you later told them not to do it 24 anymore?</p>	<p>1 Q. And when you asked them to do that, did you 2 believe that would solve the problem with respect to 3 the cease and desist letter and being a violation of 4 "Van Scoy Diamond Mine"?</p> <p>5 MR. QUINN: Objection to the form of the 6 question. It's a leading question.</p> <p>7 A. I don't understand.</p> <p>8 Q. When you instructed Megan and Karen to cross 9 out the sales receipts, did you believe that was going 10 to solve the problem with respect to Van Scoy Diamond 11 Mine.</p> <p>12 MR. QUINN: Objection to the question, the 13 form. It's a leading question.</p> <p>14 MR. PETOCK: This is an adverse witness. 15 I'm entitled to lead the witness.</p> <p>16 MR. QUINN: And objections to form are to 17 be made today. We agreed on that at the beginning. 18 By MR. MICHAEL F. PETOCK:</p> <p>19 Q. Can you answer the question?</p> <p>20 A. I can tell you what I did. I don't really 21 understand your question.</p> <p>22 MR. QUINN: If you don't understand the 23 question, you should not answer it.</p> <p>24 Q. Tell me what you did.</p>

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1 MR. QUINN: Is that a question?
 2 MR. MICHAEL F. PETOCK: Yes. Tell me what
 3 you did.
 4 MR. QUINN: That's not a question.
 5 MR. MICHAEL F. PETOCK: I'm asking: What
 6 did you do?
 7 MR. QUINN: That's a question.
 8 A. I received the letter and it said to stop using
 9 the name, so I thought I should cross it out, it would
 10 be a good idea. That's it.
 11 Q. By crossing out "Mine," you thought that would
 12 avoid the problem with "Van Scoy Diamond Mine"?

13 MR. QUINN: Objection. That's not a
 14 question.
 15 Q. Is that correct?
 16 MR. QUINN: That's a leading question. I
 17 object to it as to form.
 18 Q. Is that correct?
 19 A. I don't know.
 20 Q. Just so the record is clear, what was the
 21 advice that you got from counsel with respect to
 22 blocking out the name "Mine"?

23 MR. QUINN: Objection. That calls for
 24 inquiry into and to break the attorney-client

1 Q. Just so I'm clear here. You said -- is it
 2 correct that you said you told Megan and Karen to
 3 cross out "Mine" from the receipts?
 4 MR. QUINN: Objection. The record will
 5 show what she said. The question has been asked and
 6 answered.
 7 Q. Will you answer that? I'm unclear.
 8 A. Yes.
 9 Q. When Kurt and you -- when Kurt goes on
 10 vacation, do you usually go with him?
 11 MR. QUINN: Objection. That's not a
 12 question.
 13 Q. Do you usually go with Kurt on vacations?
 14 A. Vacations, yes.
 15 Q. Was Kurt in the store when the cease and desist
 16 letter came in?
 17 A. No.
 18 Q. Did you consult with Kurt before you told Megan
 19 and Karen to cross out the word "Mine" from the sales
 20 receipts?
 21 A. No.
 22 Q. And you said you consulted with counsel with
 23 respect to the crossing out of "Mine" from the sales
 24 receipts. What counsel was that?

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1 privilege. The witness should not answer that
 2 question.
 3 Q. When did you tell employees to stop blocking
 4 out "Mine" from the sales receipts?
 5 A. They never started and stopped. They just did
 6 it one time.
 7 Q. When did you tell them not to do it any longer?
 8 A. I don't believe I have.
 9 Q. You said earlier that you told them not to do
 10 it any longer. Isn't that correct?
 11 MR. QUINN: Objection. The record will
 12 show what she said.
 13 A. I don't remember.
 14 MR. MICHAEL F. PETOCK: I guess you need
 15 a break now?
 16 THE VIDEOGRAPHER: Yes. Going off the
 17 record at 10:56 a.m.
 18 -----
 19 THE VIDEOGRAPHER: Going back on the
 20 record at 11:05 a.m.
 21 BY MR. MICHAEL F. PETOCK:
 22 Q. During the break, did you discuss any of this
 23 testimony with your counsel, Mr. Quinn?
 24 A. No.

1 A. I never discussed it with counsel. It was
 2 what -- I am not sure. I believe it was told to
 3 counsel what was done and I was told that it wasn't
 4 necessary.
 5 MR. QUINN: Limit your response to the
 6 question that was asked.
 7 BY MR. MICHAEL F. PETOCK:
 8 Q. Who told you it wasn't necessary?
 9 A. I don't recall.
 10 Q. Was it Kurt?
 11 A. I don't recall.
 12 Q. When did this occur?
 13 A. What occur?
 14 Q. That you were told that it was no longer
 15 necessary to cross out "mine."
 16 MR. QUINN: Objection. That's not a
 17 question.
 18 Q. When did it occur?
 19 A. I don't recall.
 20 Q. When you told Megan and Karen to cross out
 21 "Mine" from the sales receipts, did you also consider
 22 changing the store sign?
 23 A. No.
 24 Q. And why not?

<p style="text-align: right;">Page 42</p> <p>1 A. I don't make those kinds of decisions. 2 Q. Did you consider changing "Van Scoy Diamond 3 Mine" on the Internet? 4 A. I don't deal with the Internet. 5 Q. Who deals with the Internet? 6 A. Kurt. 7 Q. Did you believe that "Van Scoy Diamonds of 8 Delaware, Inc." would not be an infringement of 9 "Van Scoy Diamond Mine"? 10 A. I don't know. 11 Q. Do you have any belief as to that? 12 A. I don't really understand the question. 13 Q. Did you believe that deleting the word "Mine" 14 from "Van Scoy Diamond Mine of Delaware, Inc." would 15 obviate or eliminate the problem with the cease and 16 desist letter? 17 A. I still don't understand. 18 Q. What don't you understand about it? 19 A. I just did it because it said to stop using the 20 name. That was my own decision. And I don't know why 21 I did it. 22 (Plaintiff's Exhibit No. 26 was marked for 23 identification.) 24 BY MR. MICHAEL F. PETOCK:</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Yes. 2 (Plaintiff's Exhibit No. 27 was marked for 3 identification.) 4 BY MR. MICHAEL F. PETOCK: 5 Q. I show you what's been marked as Plaintiff's 6 27. Can you identify that? 7 A. It's a receipt. 8 Q. Of what? 9 A. From our store. 10 Q. What date is that? 11 A. 11/24. 12 Q. That doesn't have "Mine" blocked out. Is that 13 correct? 14 A. Correct. 15 Q. Is that by Megan Rump? 16 A. Yes. 17 Q. Does that help refresh your recollection as to 18 whether the first day that sales occurred with "Mine" 19 blocked out was November 24th? 20 A. It would seem so. 21 Q. I'll also represent for the record that we 22 requested your counsel to produce all the sales 23 invoices with "Mine" blocked out and the first date 24 was November 24th.</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. I show you what's been marked as Plaintiff's 2 Exhibit No. 26. Can you identify that? 3 A. It's a receipt to a customer. 4 Q. And it's a receipt of the store Van Scoy 5 Diamond Mine of Delaware, Inc. Is that correct? 6 A. Yes. 7 Q. On that receipt the word "Mine" is blocked out. 8 Is that correct? 9 A. Yes. 10 Q. The date of this is November 24th, 2004? 11 A. Yes. 12 MR. QUINN: Objection. Leading. It's not 13 a question. 14 Q. Whose initials are in there where it says "sold 15 by"?</p> <p>16 A. Mine, "DVS." 17 Q. And was this the first day that a sales receipt 18 was used with the word "Mine" blocked out of the 19 "Van Scoy Diamond Mine of Delaware, Inc."? 20 A. I am not sure of the first day. 21 Q. By the way, did you receive the cease and 22 desist letter? 23 A. I didn't sign for it, no. 24 Q. Did you open it?</p>	<p style="text-align: right;">Page 45</p> <p>1 A. Okay. 2 Q. Do you believe that "Van Scoy Jewelers" would 3 not infringe the service mark or trademark "Van Scoy 4 Diamond Mine"?</p> <p>5 A. I don't know. 6 Q. What's your belief? 7 MR. QUINN: She just answered the 8 question. So she doesn't have to answer it again. I 9 object. 10 MR. MICHAEL F. PETOCK: It's a different 11 question. 12 MR. QUINN: The first question was: Do 13 you believe? And the second question was: What is 14 your belief? Those are the same questions. We can 15 have the reporter read them back. 16 BY MR. MICHAEL F. PETOCK: 17 Q. Do you have any personal opinion on it? 18 MR. QUINN: How does that question differ 19 from her belief? 20 Q. Answer the question, please. 21 MR. QUINN: I have an objection to the 22 question as to the form. It's been asked and 23 answered. 24 A. I don't know.</p>

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1 Q. How did it come about that -- I'll represent to
 2 you that the last date that an invoice was produced by
 3 your counsel with "Mine" blocked out was March 31,
 4 2005. How did it come about that you stopped blocking
 5 out "Mine"?

6 A. I only blocked it out one time, all the
 7 receipts we had.

8 Q. Were they then told not to block it out any
 9 further, any longer?

10 A. It was never really brought up again. We just
 11 blocked out the ones we had, and that was the end of
 12 it.

13 Q. You never told them not to block it out
 14 anymore?

15 MR. QUINN: Objection. It's been asked
 16 and answered.

17 MR. MICHAEL F. PETOCK: You are
 18 obstructing this deposition, Charlie.

19 MR. QUINN: I'm trying to get the
 20 questions to be asked in the proper form.

21 MR. MICHAEL F. PETOCK: Can you read back
 22 the last question, please?

23 (The reporter read as requested.)

24 BY MR. MICHAEL F. PETOCK:

1 A. 1/10/05.

2 MR. MICHAEL C. PETOCK: She's talking
 3 about dates.

4 MR. MICHAEL F. PETOCK: Oh.
 5 BY MR. MICHAEL F. PETOCK:

6 Q. First of all, all of those are sales receipts
 7 of Van Scoy Diamond Mine of Delaware, Inc. Is that
 8 correct?

9 A. Yes.

10 Q. And all of them except for the first one has
 11 "Mine" blocked out of "Van Scoy Diamond Mine of
 12 Delaware, Inc." Isn't that correct?

13 A. And the last one was.

14 Q. I think you said the invoice -- first of all,
 15 these are all sales receipts of Van Scoy Diamond Mine
 16 of Delaware, Inc. Is that correct?

17 A. Yes.

18 Q. And I believe you said the invoice of 11/29/04,
 19 which is D001269, to Joe Lamonaco --

20 A. Yes.

21 Q. -- was not a sale made by you?

22 MR. QUINN: I instruct the witness to wait
 23 till the question is asked before you respond.

24 A. It was a payment taken.

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1 Q. You testified they blocked out the word "Mine"
 2 on one occasion. Is that correct?

3 A. Correct.

4 Q. And is it your testimony that they were never
 5 instructed to block it out again after that?

6 A. That is correct.

7 (Plaintiff's Exhibit No. 28 was marked for
 8 identification.)

9 BY MR. MICHAEL F. PETOCK:

10 Q. I show you what's been marked as Plaintiff's
 11 Exhibit 28. Would you look through that? Are all of
 12 those sales receipts sales made by you?

13 A. Some are payments, so, no.

14 Q. I'm sorry. What?

15 A. No, they are not sales made by me.

16 Q. Which ones are not sales made by you?

17 A. 11/29/04, Joe Laronaco; Tom Sharrar, 3/9/05;
 18 Michael Lenoir, 12/24.

19 MR. QUINN: Speak up so she can hear you.

20 A. Michael Lenoir, 12/24/04; David Fillippone,
 21 12/28/04; Mark Garcia, 12/21.

22 MR. QUINN: Is that all?

23 A. Chris Harrison, 1/10/05.

24 Q. You said 1/10/05? Is that 1105?

1 Q. I'm sorry?

2 A. A payment.

3 Q. Oh. So you are distinguishing between sales
 4 and payments?

5 A. Yes.

6 Q. But all of these sales receipts are invoices --
 7 are transactions handled by you on these invoices. Is
 8 that correct?

9 A. Except one.

10 Q. Which one is that?

11 A. Dr. Garcia.

12 Q. 11/21/04?

13 A. Yes.

14 Q. And that bears the initials "DVS." Is that
 15 correct?

16 A. Yes.

17 Q. Are you saying that's not your initial on
 18 there?

19 A. It is my initials, but it was Kurt's sale.

20 Q. But you wrote up the sales receipt, is that
 21 correct, where you marked Garcia on 11/21/04?

22 A. I just put my initials.

23 Q. Is that your handwriting on the sales receipt?

24 A. No. It's Kurt's. Yes, it's Kurt's.

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1 Q. Kurt's. Why did you put your initials on it?
 2 A. Because he forgot to. When I was doing the
 3 receipts, I probably just put "DVS."
 4 Q. Why is that important?
 5 A. Well, just if a customer comes in, you know who
 6 waited on them.
 7 Q. Are commissions paid to the salespeople?
 8 A. No.
 9 (Plaintiff's Deposition Exhibit No. 29 was
 10 marked for identification.)
 11 MR. QUINN: Excuse me. Does that mean
 12 this whole collection? They're paper-clipped, but not
 13 stapled like the others were.
 14 MR. MICHAEL C. PETOCK: It's all a
 15 collection. It should have been stapled.
 16 MR. QUINN: Thank you.
 17 BY MR. MICHAEL F. PETOCK:
 18 Q. I show you what's been marked as Plaintiff's
 19 Exhibit 29. First of all, are all of these sales
 20 receipts, sales receipts of Van Scov Diamond Mine of
 21 Delaware, Inc.?
 22 A. Yes.
 23 Q. And do all of them have "Mine" crossed out?
 24 A. Yes.

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1 Q. Are these all sales made by Kurt?
 2 A. Yes.
 3 Q. Where was Kurt when the cease and desist letter
 4 came in. Do you know?
 5 A. Yes. He was out of town on a hunting trip.
 6 Q. In Northeast, Pennsylvania?
 7 A. Yes.
 8 MR. QUINN: Object.
 9 A. Sorry.
 10 MR. QUINN: That's not a question.
 11 Q. There are question marks after all those
 12 things.
 13 MR. QUINN: Well, it may be in your mind,
 14 but not --
 15 MR. MICHAEL C. PETOCK: Charlie, you asked
 16 questions in the same exact way in your deposition,
 17 and we didn't do that to you. It's -- you did the
 18 exact same thing. I just want to point that out.
 19 MR. QUINN: Thank you for your assistance.
 20 I don't agree with that characterization.
 21 MR. MICHAEL C. PETOCK: Read the
 22 transcript, Charlie. It's very clear from the
 23 transcript.
 24

1 BY MR. MICHAEL F. PETOCK:
 2 Q. Van Scov Diamond Mine of Delaware, Inc. changed
 3 its website address from Van Scov Diamond Mine.com to
 4 Van Scov Diamonds of Delaware.com. Is that correct?
 5 MR. QUINN: Objection. Leading.
 6 Q. Is that correct?
 7 A. I don't know anything about the website.
 8 Q. You don't know that?
 9 A. I have already stated that, nothing.
 10 Q. You don't know that the name has been changed?
 11 A. No.
 12 Q. Do you ever look at the website?
 13 A. No.
 14 Q. Do you know how long that website has been up?
 15 A. No, I do not.
 16 Q. Do you have a computer at home?
 17 A. No.
 18 Q. Do you have Internet access at your computer at
 19 your desk in the store?
 20 A. I believe so.
 21 Q. Do you ever go on the Internet?
 22 A. No.
 23 (Plaintiff's Exhibit No. 30 was marked for
 24 identification.)

1 Q. At that point in time, you were also -- it was
 2 demanded that you immediately cease and desist from
 3 infringement of the -- of the identified federally
 4 registered service mark and trademark of Mr. Wayne
 5 Van Scoy. Is that correct?

6 MR. QUINN: Objection. The letter says
 7 what it says.

8 Q. Isn't that correct?

9 A. That's what it says.

10 Q. When you read that letter, you knew then that
 11 Wayne Van Scoy owned the federal trademark
 12 registration. Isn't that correct?

13 A. At that moment, yes.

14 Q. And that Wayne Van Scoy, the plaintiff, was
 15 demanding that you stop any further use of the marks
 16 "Van Scoy Diamond Mine." Isn't that correct?

17 A. Yes.

18 Q. And also you knew that any permission which was
 19 allegedly given by Tommy Van Scoy, Jr. -- Sr., was
 20 terminated. Isn't that correct?

21 A. No.

22 Q. Why do you say that?

23 A. I didn't even know there was a trademark.

24 Q. But when you received the letter, you knew

1 and characterized this letter as saying something
 2 about Mr. Tommy Van Scoy and make --
 3 MR. MICHAEL F. PETOCK: I didn't
 4 characterize that in the letter.

5 MR. QUINN: You did. Please read the last
 6 question back.

7 (The reporter read as requested.)

8 MR. QUINN: I stand on what I just said.

9 There is no mention of Tommy Van Scoy in this letter.
 10 And the question as read back mentions his name and
 11 asks the question --

12 MR. MICHAEL F. PETOCK: It mentions his
 13 name, but it asks a different question.

14 MR. QUINN: -- as to what permission was
 15 given about Mr. Tommy Van Scoy. The question is
 16 objectionable. The letter says what it says. And
 17 that's my position.

18 BY MR. MICHAEL F. PETOCK:

19 Q. Can you answer the question?

20 A. What question?

21 Q. The question was: When you received the cease
 22 and desist letter, you knew that any alleged
 23 permission given by Tommy Van Scoy, if any, was
 24 terminated?

1 that. Correct?

2 MR. QUINN: Objection. Objection. That's
 3 leading.

4 MR. MICHAEL F. PETOCK: Objection. You
 5 are obstructing the deposition.

6 MR. QUINN: The letter is silent --

7 MR. MICHAEL F. PETOCK: Objection.

8 MR. QUINN: -- with respect to anything
 9 about Mr. Tommy Van Scoy.

10 MR. MICHAEL F. PETOCK: Objection. You
 11 are testifying. Mr. Quinn, you are testifying. And I
 12 demand that you stop testifying.

13 MR. QUINN: You can demand it all you
 14 want. I am not going to stop raising my objections.

15 MR. MICHAEL F. PETOCK: You are making a
 16 speaking objection.

17 MR. QUINN: Let me speak so we get
 18 something clear. Otherwise, I'm going to talk while
 19 you are talking and the transcript is not going to be
 20 clear.

21 MR. MICHAEL F. PETOCK: I don't care.
 22 You are not allowed to coach the witness or lead the
 23 witness. You are coaching the witness.

24 MR. QUINN: When you asked the question

1 A. No.

2 Q. Why do you say that?

3 A. Because my father-in-law gave us the name to
 4 use. And he was still alive at this time.

5 Q. But there was nothing in writing as to any
 6 permission. Is that correct?

7 MR. QUINN: Objection. Leading.

8 A. To my knowledge.

9 Q. And the only permission that was given -- the
 10 only words that were given in the form of permission
 11 were "good luck"?

12 MR. QUINN: Objection. Leading.

13 Q. Isn't that correct?

14 MR. QUINN: Objection. Leading.

15 A. To my knowledge.

16 MR. MICHAEL F. PETOCK: Charlie, I am
 17 allowed to lead an adverse witness, an adverse party.
 18 I wish you'd stop objecting these frivolous objections
 19 and obstructing this deposition.

20 MR. QUINN: I am not obstructing the
 21 deposition.

22 MR. MICHAEL F. PETOCK: Yes, you are.

23 MR. QUINN: We stipulated at the beginning
 24 that all objections were waived until the time of

<p style="text-align: center;">Page 58</p> <p>1 trial, except for the form of the question. And those 2 are the objections I am making. They're leading 3 questions.</p> <p>4 MR. MICHAEL C. PETOCK: The judge would 5 not appreciate a leading objection to an adverse 6 witness. I am sure he wouldn't allow that and I am 7 sure if we were to take it to the judge --</p> <p>8 MR. QUINN: Then there shouldn't have been 9 any stipulation as to the leading -- all objections 10 being waived except as to leading because then it's 11 meaningless. The stipulation is meaningless.</p> <p>12 MR. MICHAEL C. PETOCK: It's not an 13 objection in good faith when you know you can't make a 14 leading objection to an adverse witness.</p> <p>15 MR. QUINN: It is an objection made in 16 good faith. I resent any implication or assertion 17 that these objections are not made in good faith.</p> <p>18 MR. MICHAEL F. PETOCK: They cannot be 19 made in good faith when you know there is a perfect 20 right to ask leading questions as to an adverse party.</p> <p>21 MR. QUINN: I am standing on what I said 22 before. If you didn't want leading objections, we 23 should have stipulated that at the beginning, but we 24 didn't. We stipulated that all objections were waived</p>	<p style="text-align: center;">Page 60</p> <p>1 bankruptcy settlement?</p> <p>2 A. No.</p> <p>3 Q. Did you know anything about a settlement being 4 negotiated with the bankruptcy court on behalf of 5 Tommy Van Scoy, Sr. at the time that it was occurring 6 in 2000?</p> <p>7 A. No.</p> <p>8 Q. On the website, on your website, Van Scoy 9 Diamond Mine of Delaware.com., do you know whether 10 prices are on that site?</p> <p>11 A. I do not.</p> <p>12 Q. Do you know whether pictures of product are 13 shown on it?</p> <p>14 A. I do not.</p> <p>15 Q. Do you have any knowledge of any sales having 16 been made via the Internet, via your Internet website 17 in the last two months?</p> <p>18 A. No, I do not.</p> <p>19 Q. Would you know if sales were made via the 20 Internet?</p> <p>21 A. No.</p> <p>22 Q. Do you know what portion of your website is 23 called where the products are shown?</p> <p>24 A. Once again, I am not associated with the</p>
<p style="text-align: center;">Page 59</p> <p>1 except for leading -- objections as to the form of the 2 question. And an objection as to a leading question 3 is an objection as to the form; therefore, I must make 4 them now or they are waived. And I don't intend to 5 waive them. You made the stipulation. We're going to 6 live with it.</p> <p>7 MR. MICHAEL F. PETOCK: You are not acting 8 in good faith.</p> <p>9 MR. QUINN: Pardon me?</p> <p>10 MR. MICHAEL F. PETOCK: You are not acting 11 in good faith.</p> <p>12 MR. QUINN: I resent that. I tell you I 13 am acting in the best of faith. I am trying to do my 14 job and create a record that is going to be clear for 15 the benefit of both parties and for the court.</p> <p>16 BY MR. MICHAEL F. PETOCK:</p> <p>17 Q. Were you ever involved in any discussions with 18 respect to any contributions to a bankruptcy 19 settlement in the bankruptcy proceeding of Tommy 20 Van Scoy, Sr.?</p> <p>21 A. No.</p> <p>22 Q. Did Kurt ever say anything to you about --</p> <p>23 A. No.</p> <p>24 Q. -- a request from Wayne to contribute to the</p>	<p style="text-align: center;">Page 61</p> <p>1 website at all.</p> <p>2 Q. You have never looked at it?</p> <p>3 A. Never. I don't have time.</p> <p>4 Q. Why do you not have time?</p> <p>5 A. I don't know.</p> <p>6 (Van Scoy Deposition Exhibit No. 31 was 7 mark for identification.)</p> <p>8 BY MR. MICHAEL F. PETOCK:</p> <p>9 Q. Before we go on to Plaintiff's Exhibit 31, do 10 you recall what day of the week it was when you 11 received the cease and desist letter?</p> <p>12 MR. QUINN: Excuse me. This is marked as 13 5. So this is -- do you want to keep the same number?</p> <p>14 MR. MICHAEL F. PETOCK: Well, we're going 15 to mark it again as 31.</p> <p>16 MR. QUINN: All right.</p> <p>17 BY MICHAEL F. PETOCK:</p> <p>18 Q. Do you recall what day of the week it was when 19 the cease and desist letter was received?</p> <p>20 A. Yes.</p> <p>21 Q. What day of the week was it?</p> <p>22 A. Saturday.</p> <p>23 Q. That would have been November 20th. Isn't that 24 correct?</p>

<p style="text-align: right;">Page 62</p> <p>1 A. If that's a Saturday, I would say, yes. 2 Q. I show you now what's been marked as 3 Plaintiff's Exhibit 31. Can you identify that? 4 A. Yes. It's the warranty that Mr. Van Scoy gave 5 us to use to give to our customers after they purchase 6 something. 7 Q. And do you use that warranty in your store now? 8 A. Yes. 9 Q. And have you always used it? 10 A. Yes. 11 Q. And that's signed "Van Scoy Diamond Mine." Is 12 that correct? 13 A. Yes. 14 Q. And also the address "1117 Churchmans Place." 15 Is that correct? 16 A. Yes. 17 Q. The last paragraph of that warranty requires 18 you to provide free cleaning and inspection for 19 damaged prongs for free for diamonds or product 20 purchased at any other Van Scoy Diamond Mine. Is that 21 correct? 22 A. Yes. 23 Q. Do you honor that policy? 24 A. Yes.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Did you take any steps to preserve any evidence 2 after seeing the cease and desist letter in November? 3 A. No. 4 Q. Do you know anything about the bankruptcy 5 proceeding other than what you have already told us? 6 A. No. 7 Q. Did you ever go to the bankruptcy court? 8 A. No. 9 Q. Do you know if Kurt went to the bankruptcy 10 court? 11 A. I don't know. 12 Q. Did Kurt bring back some documents from 13 Wilkes-Barre when he came back from his hunting trip 14 in the end of November of 2004? 15 A. I don't know. 16 Q. Did you ever see any documents from the 17 bankruptcy court? 18 A. Maybe in some of the evidence. I don't 19 remember. 20 Q. Did you ever see any at home or in the store? 21 A. No. 22 Q. Did Kurt ever show you any bankruptcy 23 documents? 24 A. Not that I recall.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Is that your policy to honor it? 2 A. Yes. 3 Q. Have you always used the warranty -- 4 A. Yes. 5 Q. -- since opening in 1994? 6 A. Yes. 7 Q. Have you ever refused to honor a warranty for 8 products sold by plaintiff Wayne Van Scoy? 9 A. Not that I know of. 10 Q. Do you know of anyone in your store refusing to 11 clean jewelry which was purchased at plaintiff Wayne 12 Van Scoy's store? 13 A. Not that I know of. 14 (Plaintiff's Exhibit No. 32 was marked for 15 identification.) 16 BY MR. MICHAEL F. PETOCK: 17 Q. I show you what's been marked as Plaintiff's 18 Exhibit 32. Have you ever seen that letter before? 19 A. Yes. 20 Q. When did you see it? 21 A. In March, probably. 22 Q. And did you take any steps to preserve evidence 23 after seeing this letter? 24 A. No.</p>	<p style="text-align: right;">Page 65</p> <p>1 MR. MICHAEL F. PETOCK: 33. 2 (Plaintiff's Exhibit No. 33 was marked for 3 identification.) 4 BY MR. MICHAEL F. PETOCK: 5 Q. I show you what's been marked Plaintiff's 6 Exhibit No. 33. 7 A. Part of the tax for advertising that you had 8 requested. 9 Q. That document contains blocked out portions of 10 your corporate tax returns Form 1120S for the years 11 1994 through 2004. Is that correct? 12 A. Yes. 13 Q. On that are shown -- the only numbers that were 14 not blocked out was the advertising expenses? 15 A. Yes. 16 Q. And are those correct figures to the best of 17 your knowledge? 18 A. Did you ask if they are? 19 Q. Yes, if they are correct figures to the best of 20 your knowledge. 21 A. Yes. 22 Q. These are authentic copies of your corporate 23 tax returns showing the advertising expenses for the 24 years 1994 through 2004. Is that correct?</p>

<p style="text-align: right;">Page 66</p> <p>1 A. Yes.</p> <p>2 Q. Continuing to look at Plaintiff's Exhibit 33.</p> <p>3 The advertising figures fluctuate somewhat. Do you</p> <p>4 know any particular reason that they do that?</p> <p>5 A. The amounts each year?</p> <p>6 Q. Yes. Is that just normal variation or is there</p> <p>7 any reason for it?</p> <p>8 A. I am not really sure. Kurt does the</p> <p>9 advertising. There could be different expenses, I</p> <p>10 guess.</p> <p>11 Q. Like advertising expenses for 2004 were</p> <p>12 \$52,270. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. That's slightly less than the advertising</p> <p>15 expenses for 1995 of \$54,803?</p> <p>16 A. Yes.</p> <p>17 Q. Any comment on why the advertising expenses are</p> <p>18 just -- stayed constant even though there is</p> <p>19 inflation, ten years of inflation involved there?</p> <p>20 A. I couldn't answer that. I don't know.</p> <p>21 Q. I noticed there was a jump in advertising</p> <p>22 expenses from '99 to 2000. Approximately a little</p> <p>23 less than \$60,000 to \$84,000. Any particular reason</p> <p>24 for that?</p>	<p style="text-align: right;">Page 68</p> <p>1 continuously from 1994 to present?</p> <p>2 A. Correct.</p> <p>3 Q. I show you another box produced by your counsel</p> <p>4 that's been marked as D001812 and bears on the inside</p> <p>5 of the box cover "Van Scoy Diamond Mine." Is that a</p> <p>6 box that's used in the operation of your business,</p> <p>7 Van Scoy Diamond Mine of Delaware, Inc.?</p> <p>8 A. Yes.</p> <p>9 Q. How long has that been used?</p> <p>10 A. I am not sure.</p> <p>11 Q. More than two years?</p> <p>12 A. Yes.</p> <p>13 Q. And you are continuing to use all three of</p> <p>14 these in your business?</p> <p>15 A. Yes.</p> <p>16 Q. And the boxes and bags are given to customers</p> <p>17 with product sales. Is that correct?</p> <p>18 A. Correct.</p> <p>19 Q. You also have in your possession, isn't it</p> <p>20 correct, some advertising audio tapes made by Thomas</p> <p>21 Van Scoy, Sr. Is that correct?</p> <p>22 A. Audio tapes?</p> <p>23 Q. Advertising audio tapes.</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 67</p> <p>1 A. I don't know.</p> <p>2 Q. Do you think that's just normal business</p> <p>3 variation, depending upon what advertising was done a</p> <p>4 particular year?</p> <p>5 MR. QUINN: Is that a question?</p> <p>6 MR. MICHAEL F. PETOCK: Yes. Go ahead.</p> <p>7 A. Yes.</p> <p>8 Q. I am going to show you a plastic bag I'll</p> <p>9 represent has been produced by your counsel and marked</p> <p>10 as D001813. It bears on both sides marked "Van Scoy's</p> <p>11 Diamond Mine." Is this a bag that's used in the</p> <p>12 operation of your store, Van Scoy Diamond Mine?</p> <p>13 A. Yes.</p> <p>14 Q. How long have you been using that bag?</p> <p>15 A. Since 1994.</p> <p>16 Q. I show you a box produced by your counsel,</p> <p>17 which is marked D001811 and bears the mark on the</p> <p>18 inside of the box cover "Van Scoy Diamond Mine." Is</p> <p>19 that a box that's used in the operation of your</p> <p>20 business, Van Scoy Diamond Mine of Delaware, Inc.?</p> <p>21 A. Yes.</p> <p>22 Q. How long has that been used?</p> <p>23 A. 1994.</p> <p>24 Q. Both the bag and this box have been used</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. MICHAEL F. PETOCK: Is there any</p> <p>2 problem with "attorney's eyes only" to ask about these</p> <p>3 tapes? I am not hearing any. I am just asking some</p> <p>4 questions about it. It's already been filed in court</p> <p>5 papers.</p> <p>6 MR. QUINN: Let's start. If there is,</p> <p>7 I'll raise the objection. Is that fair?</p> <p>8 MR. MICHAEL F. PETOCK: Okay.</p> <p>9 BY MR. MICHAEL F. PETOCK:</p> <p>10 Q. What are these tapes?</p> <p>11 A. Advertisements.</p> <p>12 Q. And where did you get them?</p> <p>13 A. Tommy Van Scoy.</p> <p>14 Q. Sr.?</p> <p>15 A. Sr.</p> <p>16 Q. Were they made by Tommy Van Scoy, Sr.?</p> <p>17 A. Yes.</p> <p>18 Q. Where did he make these at?</p> <p>19 A. The radio station in Wilkes-Barre, I believe.</p> <p>20 Q. Were they used in advertising on the radio?</p> <p>21 A. Yes.</p> <p>22 Q. And for how long?</p> <p>23 A. I am not sure.</p> <p>24 Q. Are they still being used on the radio</p>

<p>1 advertising?</p> <p>2 A. I don't believe so.</p> <p>3 Q. When did you stop using them?</p> <p>4 A. I don't recall.</p> <p>5 Q. A year ago?</p> <p>6 MR. QUINN: Objection. She's answered the question. She doesn't recall.</p> <p>7 Q. Was it more than a year ago when you stopped using them?</p> <p>8 MR. QUINN: She's answered that question. She said she didn't recall.</p> <p>9 MR. MICHAEL F. PETOCK: Objection. You are coaching the witness and you are --</p> <p>10 MR. QUINN: I am not coaching the witness.</p> <p>11 MR. MICHAEL F. PETOCK: Yes, you are.</p> <p>12 MR. QUINN: You have asked the question once and now you are twisting the words.</p> <p>13 MR. MICHAEL F. PETOCK: It's a different question. I want to get some --</p> <p>14 MR. QUINN: She said she doesn't know.</p> <p>15 MR. MICHAEL F. PETOCK: I want to test the ability of her knowledge and of what her recollection is.</p> <p>16 MR. QUINN: She said she didn't know. How</p>	<p>Page 70</p> <p>1 Q. Why don't you want Wayne Van Scy to hear or see these tapes?</p> <p>2 A. I don't know that either.</p> <p>3 Q. Wouldn't the radio stations have copies of these tapes on file?</p> <p>4 A. I don't know.</p> <p>5 Q. What was the extent of the advertising?</p> <p>6 MR. QUINN: Objection. Vague and indefinite. What does "extent" mean?</p> <p>7 Q. You can answer the question, please, still?</p> <p>8 A. I don't know. I don't do the advertising.</p> <p>9 Q. But you know they were used on radio advertising?</p> <p>10 A. Yes.</p> <p>11 Q. Did you hear them on the radio?</p> <p>12 A. Yes.</p> <p>13 Q. Was it more than one station?</p> <p>14 A. I don't remember.</p> <p>15 Q. What did the tape say?</p> <p>16 A. I don't remember.</p> <p>17 MR. MICHAEL F. PETOCK: Why don't we break?</p> <p>18 THE VIDEOGRAPHER: Going off the record at 12:02 p.m.</p>
<p>1 many times does she have to answer the question?</p> <p>2 Q. Was it more than a year ago?</p> <p>3 MR. QUINN: Objection. That question has already been asked.</p> <p>4 Q. Was it more than a year ago?</p> <p>5 A. I don't know.</p> <p>6 MR. QUINN: Objection again. It's been asked again.</p> <p>7 A. We --</p> <p>8 MR. QUINN: She's answered it twice now that she doesn't know.</p> <p>9 MR. MICHAEL F. PETOCK: Let the witness speak, Charlie.</p> <p>10 MR. QUINN: I'll let her speak when I get my objection out.</p> <p>11 Q. Will you answer the question?</p> <p>12 A. All I know is the advertising is updated. So that's all I can tell you. I don't know. You can't use the same ads over and over.</p> <p>13 Q. Well, were these audio tapes used many years ago or just a few years ago?</p> <p>14 A. I don't know.</p> <p>15 MR. QUINN: Objection. She's answered the question again she doesn't know.</p>	<p>Page 71</p> <p>1 ---</p> <p>2 THE VIDEOGRAPHER: Going back on the record at 12:11 p.m.</p> <p>3 MR. MICHAEL F. PETOCK: Charlie, what I would request that you do is to produce the remainder of the lease documents which are missing. We've only received a few pages. We received a page or two of the current renewal and apparently a signature page from back in '94. And we request that you produce the lease documents and any other documents that we've requested here today prior to the 30(b)(6) deposition scheduled for next week.</p> <p>4 BY MR. MICHAEL F. PETOCK:</p> <p>5 Q. Did you discuss with your counsel any of the questions that are being asked or anticipated being asked in the deposition during the break?</p> <p>6 A. No.</p> <p>7 Q. Are you under the influence of any medications or alcohol or anything when you are testifying here today which would affect your memory?</p> <p>8 A. No.</p> <p>9 Q. Have you ever carried out any responsibilities or duties as secretary of the corporation known as Van Scy Diamond Mine of</p>

Page 74	Page 76
1 Delaware, Inc.?	1 A. I don't know.
2 A. I don't know what they would be. No.	2 Q. Do you know the last time Kurt spoke to Mark
3 Q. The answer is "no"?	3 Maurer?
4 A. What do you mean "responsibilities."	4 A. No, I do not.
5 Q. Well, have you done anything? Do you keep any	5 Q. You don't know what the names of the stores are
6 minutes? Do you do anything?	6 that he operates under, do you?
7 A. No.	7 A. No.
8 Q. Do you still have family living in Nanticoke?	8 Q. Who made the decision to open the store
9 A. Yes.	9 "Van Scy Diamond Mine" in Delaware?
10 Q. How often do you get up to visit them?	10 A. Kurt.
11 A. Not often.	11 Q. You were part of that. Weren't you?
12 Q. In the period of 1994 to 2000, did you get up	12 A. I helped.
13 there often then?	13 Q. You contributed \$20,000. Isn't that correct?
14 A. I don't recall.	14 A. Yes.
15 Q. Do you know any other store besides your store	15 Q. Did you ever have any discussions with Tommy,
16 and plaintiff's store which operates under the name	16 Sr. about opening the store?
17 "Van Scy Diamond Mine"?	17 A. Not that I recall.
18 A. I believe my brother-in-law Rick in Scranton.	18 Q. Do you believe that it was easier to open a
19 Q. Doesn't he operate under "Van Scy Diamonds"?	19 store at 1117 Churchmans Road in Newark where
20 A. I'm not sure. It's confusing in the phone	20 previously Tommy, Sr. had operated a store for a
21 book.	21 number of years?
22 Q. Is there anyone else that you are aware of?	22 A. I don't know. I never opened a store before.
23 A. I know there is a store in Lancaster and one in	23 I don't know if it was easier.
24 North Carolina and one in Allentown and Reading.	24 Q. Do you believe it was easier?
Page 75	Page 77
1 Q. Do you know what those stores are using for	1 MR. QUINN: Easier than what?
2 names?	2 MR. MICHAEL F. PETOCK: Easier than
3 A. No.	3 opening a store someplace where there had never been a
4 Q. You don't know if they're using "Van Scy	4 Van Scy Diamond Mine.
5 Diamond Mine." Is that correct?	5 A. No.
6 A. Correct.	6 Q. What do you mean by "no"? No, you don't know
7 Q. How did you and Kurt get to Charlie Quinn?	7 or no --
8 A. I don't know.	8 A. No, I don't believe it would have been easier.
9 Q. Have you ever spoken to Mark Maurer?	9 Q. Do you know what was in the store when you
10 A. No.	10 first arrived?
11 Q. Do you know anything about Mark Maurer?	11 A. Nothing. Oh. There was a safe.
12 A. Just what I have heard.	12 Q. Wasn't there also a sign on top "Van Scy"?
13 Q. What have you heard?	13 A. That I don't remember.
14 A. That he owned a store.	14 Q. What kind of safe was there when you arrived?
15 Q. Where did he own a store at?	15 A. I don't know what kind it is.
16 A. I am not sure.	16 Q. What size was it?
17 Q. Do you know where he lives?	17 A. I don't know what size it is.
18 A. No.	18 Q. Six feet tall?
19 Q. Do you know where you would call him at if you	19 A. Probably five or six.
20 were going to call him?	20 Q. Do you know where it came from?
21 A. No.	21 A. No.
22 Q. Have you ever spoken with him?	22 Q. But it was in the store when you arrived there.
23 A. No.	23 Right?
24 Q. What is Kurt's relationship with Mark Maurer?	24 A. Yes.

<p style="text-align: right;">Page 78</p> <p>1 Q. Was it blue? 2 A. Yes. 3 Q. Did Wayne ever expressly give you permission to 4 use the name "Van Scoy Diamond Mine," Wayne Van Scoy? 5 A. No. 6 Q. Did he ever give Kurt any permission to use 7 "Van Scoy Diamond Mine"? 8 A. I don't know. 9 Q. To your knowledge, did he ever give the 10 corporation any permission to use the name "Van Scoy 11 Diamond Mine"? 12 A. I don't know. 13 Q. Did Wayne Van Scoy ever imply he gave 14 permission to use the name "Van Scoy Diamond Mine"? 15 A. I didn't know we needed permission. 16 Q. That same answer would apply to Kurt and the 17 corporation. Correct? 18 A. That's correct. 19 Q. How did you find out about the bankruptcy of 20 Tommy Van Scoy, Sr.? 21 A. I don't remember. I just heard it, I guess. 22 Q. Where would you have heard it from? 23 A. That I don't remember. 24 Q. What did you know about the source of the</p>	<p style="text-align: right;">Page 80</p> <p>1 Mine store on Monday Street in Wilkes-Barre was 2 enjoyed from using the name "Van Scoy Diamond Mine" by 3 the bankruptcy court? 4 A. I just know that there was a bankruptcy thing. 5 I don't know that anyone was told not to use the name 6 or anything, the details of it. Only that there was a 7 bankruptcy. That's it. 8 Q. Do you recall any discussion at all of anyone 9 approaching your store, your company or you or Kurt 10 with respect to seeking a franchise to franchise 11 Van Scoy Diamond Mine, possibly in Baltimore or 12 something like that? 13 A. No. 14 Q. No knowledge of that? 15 A. No. 16 Q. Am I correct in saying that you don't know why 17 the domain name was changed from "Van Scoy Diamond 18 Mine.com" to "Van Scoy Diamonds of Delaware.com." Is 19 that correct? 20 A. Yes. 21 Q. Who made that decision? 22 A. For me not to know? 23 Q. No. To make that change in the domain name. 24 A. I don't know. I don't know anything about</p>
<p style="text-align: right;">Page 79</p> <p>1 financial difficulties of Tommy Van Scoy, Sr.? 2 A. I didn't know much. 3 Q. I'm sorry? 4 A. I didn't know much. 5 Q. What did you know? 6 A. Not much at all. Just that there was a 7 bankruptcy. 8 Q. Did you know that Pam and Rick Sendrick's store 9 in Scranton were enjoined from using the name 10 "Van Scoy Diamond Mine"?</p> <p>11 A. No. I knew they were involved in the 12 bankruptcy. But that's all I know.</p> <p>13 Q. How did you know they were involved in the 14 bankruptcy?</p> <p>15 A. Just hearing it, I guess.</p> <p>16 Q. Did you know that Betsy Williams was enjoined 17 from using the name "Van Scoy Diamond Mine" in the 18 bankruptcy court?</p> <p>19 A. I knew her name was in the bankruptcy, but 20 that's all.</p> <p>21 Q. How did you know her name was in the 22 bankruptcy?</p> <p>23 A. I don't know.</p> <p>24 Q. Did you know that the store, Van Scoy Diamond</p>	<p style="text-align: right;">Page 81</p> <p>1 that, I have stated before. 2 Q. If it wasn't you, it would have been Kurt. 3 Right? 4 A. I guess. 5 Q. Since there is only two of you that have an 6 ownership interest in your company, is that correct, 7 Van Scoy Diamond Mine of Delaware? 8 A. Yes. 9 Q. Do you consider "Van Scoy Diamond Mine" to be 10 the same as "Van Scoy Diamonds" as far as the mark the 11 jewelry store services? 12 A. It depends. 13 Q. Depends on what? 14 A. Who is using it. If the person is Van Scoy, I 15 guess, yes. 16 Q. You would consider those two to be the same 17 then if the person was a Van Scoy? 18 A. I think so, in my opinion. 19 Q. Is "Van Scoy Diamond Mine" a better or more 20 creative mark than "Van Scoy Diamonds"?</p> <p>21 A. I don't know if it's more creative. I don't 22 know. But I don't think about it that much.</p> <p>23 Q. Do you think your business would be harmed if 24 it was forced to stop using "Van Scoy Diamond Mine"</p>

<p style="text-align: right;">Page 82</p> <p>1 but was permitted to use "Van Scoy Diamonds"?</p> <p>2 A. No.</p> <p>3 Q. Are you aware of any customers of your store</p> <p>4 Van Scoy Diamond Mine that were customers of the</p> <p>5 previous Van Scoy Diamond Mine previous to 1994?</p> <p>6 A. Not that I know of.</p> <p>7 Q. Where do the majority of the customers of</p> <p>8 Van Scoy Diamond Mine of Delaware, Inc. come from?</p> <p>9 MR. QUINN: Where did or do?</p> <p>10 Q. Do come from.</p> <p>11 A. Newark, surrounding areas.</p> <p>12 Q. How far does the average person travel to buy a</p> <p>13 diamond ring or jewelry?</p> <p>14 A. I don't know.</p> <p>15 Q. Do you think that someone on the Internet that</p> <p>16 came across the website Van Scoy Diamond Mine.com</p> <p>17 would think there is a connection between that website</p> <p>18 and the store in Wilkes-Barre, Pennsylvania, operated</p> <p>19 by plaintiff?</p> <p>20 MR. QUINN: I think that question lacks</p> <p>21 foundation. So I object to it.</p> <p>22 A. I don't really know.</p> <p>23 Q. Are you aware of any complaints against any</p> <p>24 Van Scoy Diamond Mine store?</p>	<p style="text-align: right;">Page 84</p> <p>1 A. No. All I saw was the letter.</p> <p>2 Q. What's your relationship with Tommy Van Scoy,</p> <p>3 Jr.?</p> <p>4 A. My brother-in-law.</p> <p>5 Q. What is your relationship with your</p> <p>6 brother-in-law?</p> <p>7 A. Very good. Close.</p> <p>8 Q. How often do you speak to him?</p> <p>9 A. A couple times a week.</p> <p>10 Q. What do you speak about?</p> <p>11 A. Kids.</p> <p>12 Q. Kids?</p> <p>13 A. Children. He has a son the same age as my son.</p> <p>14 Just personal.</p> <p>15 Q. Do you ever talk about the litigation?</p> <p>16 A. No.</p> <p>17 Q. What's your relationship with Tony Van Scoy?</p> <p>18 A. Close.</p> <p>19 Q. How often do you speak to him?</p> <p>20 A. Not as often. Maybe once a month.</p> <p>21 Q. Have you spoken to him at all about the</p> <p>22 litigation?</p> <p>23 A. No.</p> <p>24 Q. When was the last time Kurt spoke to Tommy</p>
<p style="text-align: right;">Page 83</p> <p>1 A. From customers?</p> <p>2 Q. Yes.</p> <p>3 A. Yes.</p> <p>4 Q. What are you aware of?</p> <p>5 A. There's always going to be some complaints.</p> <p>6 You can't just run a perfect business. I don't know</p> <p>7 of a particular instance.</p> <p>8 Q. Do you know anything specific?</p> <p>9 A. There was one recent that came to mind about</p> <p>10 someone purchased a diamond and they went to trade it</p> <p>11 in and they said it wasn't the diamond that it was</p> <p>12 supposedly purchased. I do have a letter from that</p> <p>13 person.</p> <p>14 Q. Where was that diamond purchased from?</p> <p>15 A. I don't recall which store, but Wayne</p> <p>16 Van Scoy's name is at the bottom of the appraisal.</p> <p>17 Q. Is that the Delaware store?</p> <p>18 A. I don't recall which store it was purchased in.</p> <p>19 It was before my time.</p> <p>20 Q. That was purchased back prior to 1994?</p> <p>21 A. Yes.</p> <p>22 Q. But you don't know that the diamond that was</p> <p>23 brought in is the same diamond that was sold to that</p> <p>24 person either. Do you?</p>	<p style="text-align: right;">Page 85</p> <p>1 Van Scoy, Jr.?</p> <p>2 A. Yesterday.</p> <p>3 Q. Do you know what the substance of that</p> <p>4 discussion was?</p> <p>5 A. Fish.</p> <p>6 Q. Anything about the litigation?</p> <p>7 A. No.</p> <p>8 Q. What's your relationship with Rick Sendrick?</p> <p>9 A. We don't have one.</p> <p>10 Q. Do you have any relationship with his wife,</p> <p>11 Pam?</p> <p>12 A. Not really.</p> <p>13 Q. What's your relationship with Ken Van Scoy?</p> <p>14 A. We don't really have one.</p> <p>15 Q. When was the last time you saw Ken?</p> <p>16 A. At the funeral, Mr.'s funeral.</p> <p>17 Q. What's your relationship with Wayne Van Scoy's?</p> <p>18 A. Don't have one.</p> <p>19 Q. My understanding is that at one time in the ten</p> <p>20 years since you've had the store you made some</p> <p>21 improvements to the store. Is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And what were those improvements?</p> <p>24 A. New carpeting, wallpaper.</p>

	Page 86	Page 88
1	Q. Did you extend the showroom, too?	
2	A. Yes.	
3	Q. By how much?	
4	A. Four feet, five feet.	
5	Q. When did that take place?	
6	A. I am not sure of the exact date.	
7	Q. What's your best estimate of the date?	
8	A. Either '99 or 2000.	
9	Q. How much did it cost?	
10	A. I don't recall.	
11	Q. Do you have some estimate?	
12	A. A couple thousand.	
13	MR. MICHAEL F. PETOCK: I would like to	
14	take a five-minute break.	
15	THE VIDEOGRAPHER: Going off the record at	
16	12:31 p.m.	
17	-----	
18	THE VIDEOGRAPHER: Going back on the	
19	record at 12:37 p.m.	
20	MR. MICHAEL F. PETOCK: We would -- we're	
21	going to retain the originals of the exhibits and make	
22	copies for the court reporter. Is that acceptable?	
23	MR. QUINN: You are going to retain the	
24	original?	
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1	MR. MICHAEL F. PETOCK: Yes.	
2	MR. QUINN: That's fine. We have a set.	
3	Are you finished?	
4	MR. MICHAEL F. PETOCK: We have no	
5	further questions.	
6	THE WITNESS: Okay.	
7	THE VIDEOGRAPHER: Going off the record at	
8	12:38 p.m.	
9	-----	
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14	of shareholders and directors	
15	22 1/10/01 Minutes of annual meeting	23
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17	23 1/10/00 Minutes of annual meeting	23
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2
3 REPLACE THIS PAGE
4 WITH THE ERRATA SHEET
5 AFTER IT HAS BEEN
6 COMPLETED AND SIGNED
7 BY THE DEPONENT.
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1 State of Delaware)
2)
3 New Castle County)

4 CERTIFICATE OF REPORTER

5
6 I, Lucinda M. Reeder, Registered Diplomate
7 Reporter and Notary Public, do hereby certify that
8 there came before me on the 19th day of September
9 2005, the witness herein, DONNA VAN SCOVY, who was duly
10 sworn by me and thereafter examined by counsel for the
11 respective parties; that the questions asked of said
12 witness and the answers given were taken down by me in
13 Stenotype notes and thereafter transcribed by use of
14 computer-aided transcription and computer printer
15 under my direction.

16 I further certify that the foregoing is a true
17 and correct transcript of the testimony given at said
18 examination of said witness.

19 I further certify that I am not counsel,
20 attorney, or relative of either party, or otherwise
21 interested in the event of this suit.

22 Lucinda M. Reeder, RDR, CRR
23 Certification No. 132-RPR
24 (Expires January 31, 2008)

DATED: 9-26-05

EXHIBIT G



In the Matter Of:

Van Scoy

v.

Van Scoy Diamond Mine of Delaware, Inc.

C.A. # 05-108 (KAJ)

Transcript of:

Lori B. McMichael

September 19, 2005

Wilcox & Fetzer, Ltd.
Phone: 302-655-0477
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Email: lhertzog@wilfet.com
Internet: www.wilfet.com



Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY,)
Plaintiff,)
v.) Civil Action
VAN SCOY DIAMOND MINE OF) No. 05-108 (KAJ)
DELAWARE, INC., KURT VAN SCOY)
AND DONNA VAN SCOY,)
Defendants.)

Deposition of LORI B. McMICHAEL taken pursuant to notice at the law offices of Ashby & Geddes, 17th floor, 222 Delaware Avenue, Wilmington, Delaware, beginning at 1:40 p.m. on September 19, 2005, before Lucinda M. Reeder, Registered Diplomatic Reporter and Notary Public.

APPEARANCES:

MICHAEL F. PETOCK, ESQ.
MICHAEL C. PETOCK, ESQ.
PETOCK & PETOCK, LLC
222 Delaware Avenue, 17th Floor
Wilmington, Delaware 19801
for the Plaintiff.

CHARLES N. QUINN ESQ.
FOX ROTHSCHILD LLP
2000 Market Street - Tenth Floor
Philadelphia, PA 19103-3291
for the Defendants.

ALSO PRESENT:

WAYNE VAN SCOY
KURT VAN SCOY

WILCOX & FETZER, LTD.
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477

	Page 2		Page 4
1	LORI BETH McMICHAEL,	1	A. For the most part.
2	the witness herein, having first been	2	Q. What about Donna, how often does she work?
3	duly sworn on oath, was examined and	3	A. I'd say about the same.
4	testified as follows:	4	Q. So she's pretty much there except for -- would
5	BY MR. MICHAEL C. PETOCK:	5	you say she's there every day that the store is open,
6	Q. Hi, Lori.	6	pretty much?
7	A. Hello.	7	A. Not every day. It depends.
8	Q. My name is Michael Petock. I'm an attorney for	8	Q. Approximately how often?
9	plaintiff Wayne Van Scoy. Thank you for coming today.	9	A. At least five out of the six days we're open.
10	This is Wayne over here. This is my Dad over here,	10	Q. What are your job duties and responsibilities?
11	Michael F. Petock.	11	A. Oversee the sales floor as well as the other
12	I am going to ask you some questions today	12	employees' daily tasks, anything. We all are pretty
13	to find out if you know any information that might be	13	much the same. It's just that I can instruct anybody
14	relevant to the case we're involved in. Okay? If you	14	that doesn't know how to do something, only because I
15	don't understand any of the questions that I ask you,	15	have been there for a long time.
16	just let me know, and I'll rephrase them. If you	16	Q. What about Kurt, what are his job duties?
17	don't hear a question, just let me know, and I'll	17	A. He's the same as well, that his jobs include
18	repeat it for you. Okay? Do you have any questions?	18	doing benchwork, advertising?
19	A. No.	19	Q. What about Donna?
20	Q. You're employed by Van Scoy Diamond Mine of	20	A. Donna would be secretary of the corporation.
21	Delaware, Inc. Is that correct?	21	Q. Does she make sales?
22	A. Yes.	22	A. Yes.
23	Q. How long have you been employed by that	23	Q. Is she a salesperson?
24	corporation?	24	A. She's the same, equal, just like the rest of
	Page 3		Page 5
1	A. Over eight years.	1	us, but she would do secretarial.
2	Q. So you began working in approximately when?	2	Q. Does she make approximately as many sales as
3	A. '97.	3	you do?
4	Q. '97. Okay. How did you get that job?	4	A. It depends.
5	A. A sign on the door "Help Wanted." My mother	5	Q. Does she sell throughout the year?
6	was a customer.	6	A. Yes.
7	Q. Okay. What is your position with that company?	7	Q. Is there any period she doesn't sell?
8	A. Retail management, sales.	8	A. No. Not unless she's sick.
9	Q. Are you a manager?	9	Q. Do you open the mail?
10	A. Per se, yes.	10	A. Yes.
11	Q. Supervisor?	11	Q. Do you check the e-mail?
12	A. Yes.	12	A. Yes.
13	Q. Are you the most senior salesperson?	13	Q. How often do you check the e-mail?
14	A. Yes.	14	A. Now? No, I don't.
15	Q. Could you name the other employees at Van Scoy	15	Q. You don't check the e-mail anymore?
16	Diamond Mine of Delaware, Incorporated?	16	A. No.
17	A. Yes. Annette D'Angelo; Sam Shoemaker, Karen	17	Q. Why not?
18	Vayo, and Megan Rump.	18	A. It hasn't been getting any.
19	Q. Who is your boss?	19	Q. What type of e-mails come in?
20	A. Kurt and Donna Van Scoy.	20	A. Customers.
21	Q. How often does Kurt work?	21	Q. And what do the e-mails from customers say?
22	A. I don't know.	22	A. Specifically, I don't recall, but anything from
23	Q. Is he there every day that the store is opened,	23	where are you located to how many -- information,
24	approximately?	24	pricing of merchandise.

<p style="text-align: center;">Page 6</p> <p>1 Q. Do they make inquiries about products through 2 e-mail? 3 A. Sure. 4 Q. And where do they -- do you have any 5 understanding as to where they have come to see these 6 products in which they're making inquiries to? 7 A. I don't understand. 8 Q. Okay. I'll rephrase. Do you know if any of 9 these e-mails ever make inquiries as to the products 10 that are shown on the website Van Scoy Diamond 11 Mine.com or Van Scoy Diamonds of Delaware.com? 12 A. Yes. 13 Q. They do? Okay. Do you save your e-mails? 14 A. Yes. 15 Q. Do you print them? 16 A. A few. 17 Q. Just a few? 18 A. Ones that people e-mail me and thank us for our 19 service. And I print them and show the staff. 20 Q. Do you answer the phone? 21 A. Yes. 22 Q. How do you answer the phone? What do you say? 23 A. "Good morning, afternoon, evening, Van Scoy's." 24 Q. Is the mark "Van Scoy Diamond Mine" used in the </p>	<p style="text-align: center;">Page 8</p> <p>1 frame. I was still in school. 2 Q. Do you know what the purpose of Wayne's visit 3 was at that time? 4 A. No, I don't. 5 Q. Do you remember anything more about the visit? 6 A. No. All I know is he was the only brother I 7 hadn't met, and it was a shake, "this is Wayne." 8 That's it. 9 Q. How long was he in the store? 10 A. I don't know total. 11 Q. Was it a few hours, a few minutes? 12 A. I don't know. 13 Q. Okay. Have you ever seen or talked to Wayne 14 Van Scoy since that visit you characterized as '98, 15 '99, I think? 16 A. No. 17 Q. To your knowledge, has the store or the 18 business had any contact with Wayne Van Scoy since 19 that visit in '97 or '98? 20 A. Yes. 21 Q. What kind of contact do you have knowledge of? 22 A. Family, the brothers. 23 Q. So you think that Kurt has -- could you 24 elaborate on what you mean by "family"? </p>
<p style="text-align: center;">Page 7</p> <p>1 store? 2 A. Yes. 3 Q. Could you tell me where it's used in the store, 4 please? 5 A. The sign, our business cards, receipts, 6 paperwork, warranties, appraisals, boxes. 7 Q. Anywhere else? 8 A. That I am -- use with, that's all I would -- 9 Q. Okay. Thank you. 10 A. That's all I use. 11 Q. What do you know about Wayne Van Scoy? 12 A. I know he's a brother of Kurt Van Scoy. 13 Q. Do you know anything else? 14 A. And he has worked in the same industry, Van 15 Scoy, for probably as long as Kurt has. And that's 16 about it. 17 Q. Have you ever met him before today? 18 A. Yes, I have. 19 Q. Where have you met him? 20 A. At Van Scoy, in Delaware. 21 Q. Do you know when -- at your store? 22 A. Yes. 23 Q. Do you know when that was? 24 A. Approximately '98 or '99. Within that time </p>	<p style="text-align: center;">Page 9</p> <p>1 A. Kurt goes home regularly to see his family, 2 parents -- well, parent. Holidays, funerals, 3 unfortunately. 4 Q. Are you familiar with the former website that 5 was called -- that was hosted with the domain name 6 www.Van Scoy Diamond Mine.com? 7 A. Yes. 8 Q. Are you also familiar with the present website 9 that has a domain name of www.Van Scoy Diamonds of 10 Delaware.com? 11 A. Yes. 12 Q. Could you tell me what you know about those 13 websites? 14 A. One was a website we had used before, and this 15 is one that is used now. 16 Q. Do you know: Were you working at the store 17 when the original website www.Van Scoy Diamond 18 Mine.com was first published to the Internet? 19 A. Yes. 20 Q. Do you remember when it was first published to 21 the Internet? 22 A. No. 23 Q. Do you have an approximate year as to when it 24 was? </p>

	Page 10	Page 12
1	A. I couldn't even -- it could be anywhere from 2 2000 to 2004 because I wasn't active on it.	1 A. No. 2 (Plaintiff's Exhibit No. 34 was marked for 3 identification.)
3	Q. Do you remember any discussions as to between 4 you and Kurt or between you and anyone else or between 5 anyone in the store as to getting the website Van Scy 6 Diamond Mine.com?	4 BY MR. MICHAEL C. PETOCK: 5 Q. I am going to show you what we're going to mark 6 as Plaintiff's Exhibit 34. Do you recognize what's 7 been marked as Plaintiff's Exhibit 34?
7	A. No.	8 A. Yes. 9 Q. What is it?
8	Q. How are the websites used in the business or 9 have they been?	10 A. Receipt, a copy of a receipt. 11 Q. And does it indicate who made the sale that is 12 the subject of this receipt?
10	A. Like a catalog.	13 A. It's not a sale. It's a payment.
11	Q. What do you mean?	14 Q. Does it indicate who received the payment?
12	A. Customers that just want to get visual ideas 13 that may -- that's really -- and locations. Anything.	15 A. Yes.
14	Q. So you would characterize the website like a 15 catalog?	16 Q. Who would that be?
16	A. Yes.	17 A. Me.
17	Q. Like similar to a catalog that sells products, 18 like a J. Crew catalog or a GAP catalog?	18 Q. It says "Lori." That's how you indicate --
19	A. No. I think ours is more an informative 20 catalog, an idea catalog, with options.	19 A. Yes.
21	Q. There are pictures of the products on the 22 website, is that correct, that you sell?	20 Q. Do you agree that the website "www.Van Scy 21 Diamond Mine.com" is crossed out?
23	A. Yes.	22 A. Yes.
24	Q. Do you know who took those pictures?	23 Q. Do you know who crossed it out? 24 A. No.
	Page 11	Page 13
1	A. No.	1 Q. Did you cross it out?
2	Q. Do you know when the last time pictures were 3 taken of the products in your store?	2 A. No.
4	A. No.	3 Q. Are there other sales receipts that you know of 4 in which the website was crossed out?
5	Q. Have you ever known pictures to be taken of 6 products?	5 A. This is actually the first time I've seen the 6 website crossed out.
7	A. In our store?	7 Q. Do you think it was crossed out after you 8 made -- received this payment or before?
8	Q. Yes.	9 A. I don't know.
9	A. No.	10 Q. The date on the receipt is 3/18/2005. Is that 11 correct?
10	Q. Have you ever told a customer to go to the 11 website?	12 A. Yes.
12	A. Yes.	13 Q. What website is listed on the sales receipts 14 that you are using now, presently?
13	Q. And what is the purpose of telling a customer 14 to go to the website?	15 A. I don't know.
15	A. Get ideas, different mountings, options they 16 have they can't visually imagine.	16 Q. Is it the same sales receipt as this, as far as 17 you know?
17	Q. Do you know why there was a switch from the 18 former website domain name www.Van Scy Diamond 19 Mine.com to the present website domain www.Van Scy 20 Diamonds of Delaware.com?	18 MR. QUINN: Objection. She just said she 19 doesn't know what website is being used.
21	A. No.	20 MR. MICHAEL C. PETOCK: Okay.
22	Q. Do you know when that change took place?	21 MR. QUINN: The question has been asked 22 and answered.
23	A. No.	23 MR. MICHAEL C. PETOCK: It's a little 24 different, I think.
24	Q. Do you know who made the change?	

Page 14	Page 16
<p>1 MR. QUINN: Not different enough in my 2 book.</p> <p>3 MR. MICHAEL C. PETOCK: Okay. Could you 4 read back the question, please?</p> <p>5 (The reporter read as requested.)</p> <p>6 BY MR. MICHAEL F. PETOCK:</p> <p>7 Q. Could you answer the question, please?</p> <p>8 A. Is this the same sales receipt?</p> <p>9 Q. Are you presently using this sales receipt?</p> <p>10 A. I don't know.</p> <p>11 MR. MICHAEL C. PETOCK: Charlie, we'll ask 12 that you produce any other sales receipts with the 13 domain name crossed out, please. And also a sample of 14 the sales receipt that you are currently using, 15 please.</p> <p>16 BY MR. MICHAEL C. PETOCK:</p> <p>17 Q. Lori, were you aware that a letter was received 18 by Van Scoy Diamond Mine, Incorporated, Van Scoy 19 Diamond Mine of Delaware, Incorporated in 20 approximately November of this year from my law 21 firm -- November of 2004, demanding that Kurt and 22 Donna Van Scoy end -- their corporation cease using 23 the name "Van Scoy Diamond Mine"?</p> <p>24 A. No.</p>	<p>1 ever tell you about receiving this letter?</p> <p>2 A. No.</p> <p>3 Q. Or any type of letter?</p> <p>4 A. No.</p> <p>5 Q. Who told you about this litigation originally?</p> <p>6 A. Probably everybody, like the store in general.</p> <p>7 It was made common knowledge in the store.</p> <p>8 Q. What was said about it?</p> <p>9 A. That we were being sued by Wayne Van Scoy, 10 something to do with our name.</p> <p>11 Q. Anything else said about it?</p> <p>12 A. That's what it came down to when I first found 13 out.</p> <p>14 Q. Did you ever discuss the litigation with Kurt?</p> <p>15 A. I don't understand.</p> <p>16 Q. Have you ever discussed the fact that Kurt was 17 being sued with Kurt?</p> <p>18 A. With Kurt?</p> <p>19 Q. Have you ever discussed with Kurt Van Scoy 20 that -- have you had any discussions pertaining to 21 this litigation with Kurt Van Scoy?</p> <p>22 A. Yes.</p> <p>23 Q. What have you spoken about?</p> <p>24 A. Just the fact that he is being sued.</p>
Page 15	Page 17
<p>1 Q. When did you first become aware of any issues 2 regarding the use of the name "Van Scoy Diamond Mine" 3 by the defendants in this case?</p> <p>4 A. Exact dates?</p> <p>5 Q. No, not exact dates. Approximate dates.</p> <p>6 A. I honestly couldn't tell you. I know it's been 7 going on for months. That's about as best I can --</p> <p>8 Q. Would you say it was approximately in November?</p> <p>9 A. I really don't remember.</p> <p>10 (Plaintiff's Deposition Exhibit No. 35 was 11 marked for identification.)</p> <p>12 BY MR. MICHAEL F. PETOCK:</p> <p>13 Q. Is there familiar to you, which has been marked 14 as Plaintiff's Exhibit 35?</p> <p>15 A. No.</p> <p>16 Q. Could you look at the last page, please? Could 17 you tell me who this was received by, according to 18 the --</p> <p>19 A. This?</p> <p>20 Q. Yes.</p> <p>21 A. Annette D'Angelo.</p> <p>22 Q. Is she is somebody that you work with?</p> <p>23 A. Yes.</p> <p>24 Q. Did you ever talk to Annette or did Annette</p>	<p>1 Q. Anything more specific than that?</p> <p>2 A. I can't be specific, no. It's his business.</p> <p>3 Q. Has he told you the reason he's being sued?</p> <p>4 A. From what I gather, it's because of the website 5 and a name and whose name it actually is.</p> <p>6 Q. Did he tell you specifically what it is about 7 the website that could be a basis for a lawsuit 8 against him?</p> <p>9 A. "Van Scoy Diamond Mine."</p> <p>10 Q. Any other reason?</p> <p>11 A. That's it.</p> <p>12 Q. Are you familiar with the fact that for several 13 months the word "Mine" was blocked out of the sales 14 receipts used by "Van Scoy Diamond Mine of Delaware, 15 Inc."?</p> <p>16 A. Familiar with, yes.</p> <p>17 Q. What do you know about the fact that the word 18 "Mine" was blocked out of the sales receipts?</p> <p>19 A. That they were blocked off the sales receipts.</p> <p>20 Q. Do you know who blocked out the word "Mine" 21 from the sales receipts?</p> <p>22 A. No.</p> <p>23 Q. Do you know who made the decision?</p> <p>24 A. No.</p>

<p style="text-align: right;">Page 18</p> <p>1 Q. To block out the word "Mine"? Do you know what 2 the purpose of blocking out the word "Mine" was? 3 A. No. 4 Q. Did you ever personally block out the word 5 "Mine" from a sales receipt? 6 A. No. 7 Q. Did you ever ask Kurt why you were using -- you 8 were using -- you used sales receipts with the word 9 "Mine" blocked out. Is that correct? 10 A. Yes. 11 Q. Did you ever ask Kurt why you were using sales 12 receipts with that word blocked out? 13 A. No. 14 Q. Did you ever ask Donna? 15 A. No. 16 Q. Did Kurt ever say anything to you with respect 17 to the fact that "Mine" was being blocked out from the 18 sales receipts? 19 A. No. 20 Q. Did Donna ever say anything to you with respect 21 to that matter? 22 A. No. 23 Q. Did you ever have any discussions with anyone 24 concerning the fact that the word "Mine" was being</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. QUINN: Objection to the extent I 2 don't think there is a foundation for the fact that 3 there is a policy. Otherwise -- 4 Q. Are you familiar with any policy regarding 5 cleaning jewelry that has been bought from other 6 Van Scy Diamond Mine stores? 7 A. No. 8 Q. If a customer brought in a piece of jewelry and 9 told you it was bought from another Van Scy Diamond 10 Mine store, how much would you charge them if they 11 wanted a cleaning? Do you have any idea? 12 A. Usually, none. 13 Q. But there is no policy that you are aware of 14 regarding -- 15 A. We are told to clean Van Scy Diamond Mine 16 merchandise. 17 Q. For free? 18 A. Yes. 19 Q. Was there an incident where a customer came to 20 your store and requested a cleaning of a piece of 21 jewelry that they bought from Wayne Van Scy's store? 22 A. I don't know. Not that I know of. 23 Q. You don't know of any customer of Wayne coming 24 to your store asking for a cleaning?</p>
<p style="text-align: right;">Page 19</p> <p>1 blocked out from the sales receipts? 2 A. No. 3 Q. At some point, the word "Mine" was no longer 4 blocked out from the sales receipts. Is that correct? 5 A. Sure. Yes. 6 Q. Is the word "Mine" blocked out presently from 7 the sales receipts that you are using? 8 A. No. 9 Q. Do you know: Was there any discussion as to -- 10 did anyone tell you to no longer use sales receipts 11 with the word "Mine" blocked out? 12 A. No. 13 Q. Did a customer ever ask you why the word "Mine" 14 was blocked out from the sales receipts? 15 A. No. 16 Q. Who does the advertising for the corporation? 17 A. Kurt Van Scy. 18 Q. Does Donna do any advertising for the 19 corporation? 20 A. No. 21 Q. Are you familiar with a policy of the store 22 regarding cleaning and/or inspection for damaged 23 prongs of jewelry that may have been bought from other 24 Van Scy Diamond Mine stores?</p>	<p style="text-align: right;">Page 21</p> <p>1 A. No. 2 Q. Have you ever met any -- you testified that you 3 met all of Kurt's brothers and sisters? 4 A. No. I met all of his brothers. 5 Q. All of his brothers. Okay. When did you meet 6 Tony? 7 A. Probably sooner -- the first time? 8 Q. Sure. Yes. 9 A. '97, '98. 10 Q. How often do you see him? 11 A. Maybe once a year, twice a year. 12 Q. Do you know what Tony does now? 13 A. Jeweler. 14 Q. Do you know where? 15 A. No. 16 Q. What about Ken Van Scy? Do you know Ken 17 Van Scy? 18 A. Yes. 19 Q. When did you first meet Ken Van Scy? 20 A. Definitely, '97. 21 Q. Why did you meet him in '97 or under what 22 circumstances did you meet him in 1997? 23 A. Close relationship with Kurt. He visited. 24 Q. Did he ever work for Kurt?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. Yes. 2 Q. When was that? 3 A. Sporadically helping when Kurt would be away or 4 just wanted to help out. 5 Q. When was the last time he worked for Kurt? 6 A. I don't remember. 7 Q. Has he worked for Kurt in the last year? 8 A. I would say, no. 9 Q. Do you know if he's worked for Kurt in the last 10 two years? 11 A. I don't know. 12 Q. Have you ever met Tommy Van Scoy, Jr.? 13 A. Yes. 14 Q. When was the first time you met Tommy Van Scoy, 15 Jr.? 16 A. Probably '98, '99. 17 Q. Do you know what Tommy Van Scoy, Jr. is doing 18 now? 19 A. He's also a jeweler. 20 Q. Do you know where? 21 A. No. 22 Q. Do you know what the name of his store is? 23 A. I think it's Tovon. 24 Q. Do you ever -- do you or the business ever send</p>	<p style="text-align: right;">Page 24</p> <p>1 me as to whether you are referring to the store, the 2 mark, the stores that the father owned, what. 3 Q. Talking about Tommy Van Scoy, Sr.'s operation 4 of the business. 5 A. No. 6 Q. Do you know anything about other Van Scoy 7 Diamond Mines? Do you know anything about the 8 existence of other Van Scoy Diamond Mines, either -- 9 well, ever? 10 A. Yes. 11 Q. What do you know about that? 12 A. Not much, just that they existed. 13 Q. How do you know about their existence? 14 A. Through Kurt saying. That's it. 15 Q. Have you ever heard the name Mark Maurer? 16 A. Yes. 17 Q. How have you heard about that name? 18 A. Conversations since this lawsuit. 19 Q. What has been said about Mark Maurer? 20 A. I don't recall the exact. All I know is his 21 name. 22 Q. Who has spoken his name? 23 A. It could have been Kurt or Donna. 24 Q. Has he ever called the store?</p>
<p style="text-align: right;">Page 23</p> <p>1 Tovon or Tommy anything through the mail? 2 A. Not that I specific -- specifically what's in a 3 package? No, I don't know. 4 Q. Do you ever send packages? 5 A. Yeah. 6 Q. Who directs you to send packages to Tommy? 7 A. Kurt or Donna Van Scoy. 8 Q. Do you know if you are sending him jewelry? 9 A. I don't know. 10 Q. Has Tommy Van Scoy, Jr. ever been to the store 11 in Delaware? 12 A. Yes. 13 Q. When was the last time he was there? 14 A. Within the year. 15 Q. Do you know what the purpose of his visit was? 16 A. No. 17 Q. Is there any type of business relationship 18 between Van Scoy Diamond Mine of Delaware and Tommy 19 that you are aware of? 20 A. No. 21 Q. Do you know anything about the history of 22 Van Scoy Diamond Mine? 23 A. Some. 24 MR. QUINN: Objection. It's not clear to</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Not that I know of. 2 Q. Has he ever been to the store? 3 A. I don't know. 4 (Recess taken.) 5 BY MR. MICHAEL C. PETOCK: 6 Q. We were talking about the fact that you have 7 heard the name Mark Maurer. In what context did you 8 hear his name? 9 A. I don't understand. 10 Q. Was it in a conversation with someone? 11 A. Yes. 12 Q. And was it a casual conversation or was it -- 13 was it a casual conversation with someone? 14 A. Probably. It wasn't directed to me. 15 Q. Who was the conversation with? 16 A. I don't know. 17 Q. Was it with one of your -- would your other 18 coworkers also have heard the name Mark Maurer? 19 A. I don't know. 20 Q. Have you noticed Kurt doing anything 21 differently around the store since he received notice 22 of this litigation? 23 A. Not that I know of, no. 24 Q. Has Donna began doing anything differently?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. I don't know. Not that I know of.</p> <p>2 Q. Has Kurt or Donna expressed any belief to you 3 as to whether or not they would win the lawsuit?</p> <p>4 A. No.</p> <p>5 Q. What did you do to prepare for this deposition?</p> <p>6 A. Spoke with Charlie.</p> <p>7 Q. When did you first speak with Charlie?</p> <p>8 A. Specifically, I don't know. It was a phone 9 conversation. Maybe a month ago, two months ago.</p> <p>10 Q. And since that phone conversation two months 11 ago, have you spoken to him again?</p> <p>12 A. Yes.</p> <p>13 Q. When was the most recent time?</p> <p>14 A. Last Friday. This past Friday.</p> <p>15 Q. Did you ever read any portion of the deposition 16 transcript of Kurt Van Scoy?</p> <p>17 A. Yes.</p> <p>18 Q. Did you read the entire transcript?</p> <p>19 A. Not the entire.</p> <p>20 Q. Which portion did you read?</p> <p>21 A. I don't know the exact.</p> <p>22 Q. Do you remember which subject matter it 23 pertained to?</p> <p>24 A. Specifically, no.</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. Where was it at the store?</p> <p>2 A. It's been all over the place at the store.</p> <p>3 Q. Are there more than one copies of it at the 4 store?</p> <p>5 A. I don't know.</p> <p>6 Q. Where did you read it?</p> <p>7 A. At the store.</p> <p>8 Q. Has everyone at the store read it?</p> <p>9 A. I don't know.</p> <p>10 Q. Are you aware of anyone else having read it at 11 the store?</p> <p>12 A. I know I have seen people look at it.</p> <p>13 Q. Do you know if anyone has ever given Kurt 14 Van Scoy permission to use the mark "Van Scoy Diamond 15 Mine"?</p> <p>16 A. What I have been told, yes.</p> <p>17 Q. What have you been told?</p> <p>18 A. I have been told that his father gave Kurt the 19 name "Van Scoy Diamond Mine" with regards to the very 20 first day he opened his doors as well as his father 21 gave to his other siblings.</p> <p>22 Q. Who told you this?</p> <p>23 A. I have heard it from Kurt.</p> <p>24 Q. Who else have you heard it from, anyone else?</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Did you read a portion of the deposition 2 transcript pertaining to the blocking out of the word 3 "Mine"?</p> <p>4 A. Yes.</p> <p>5 Q. Did Kurt direct you to which portions of the 6 deposition transcript he wanted you to review?</p> <p>7 A. No.</p> <p>8 Q. Did Charlie direct you to that?</p> <p>9 A. No.</p> <p>10 Q. How did you decide which portions of the 11 deposition transcript to read?</p> <p>12 A. I didn't because half of it was the same 13 question, so I just glanced and when you see your own 14 name pop up, so.</p> <p>15 Q. Who told you to read the deposition transcript 16 of Kurt?</p> <p>17 MR. QUINN: Objection. There hasn't been 18 any foundation for anybody telling her to read it.</p> <p>19 Q. Did somebody tell you to read the deposition 20 transcript of Kurt Van Scoy?</p> <p>21 A. No.</p> <p>22 Q. How did you obtain a copy of the deposition 23 transcript of Kurt Van Scoy?</p> <p>24 A. It was at the store.</p>	<p style="text-align: right;">Page 29</p> <p>1 A. A pretty known fact because I have seen pretty 2 much all of his family members, except for one, in the 3 store, so.</p> <p>4 Q. Have you talked to the other family members 5 about Kurt's use of the mark "Van Scoy Diamond Mine"?</p> <p>6 A. No.</p> <p>7 Q. Have you talked to any of the other family 8 members with respect to this litigation?</p> <p>9 A. No.</p> <p>10 MR. MICHAEL F. PETOCK: I have nothing 11 further.</p> <p>12 MR. QUINN: No cross at this time.</p> <p>13 MR. MICHAEL F. PETOCK: The same 14 stipulation is that we'll retain the original 15 exhibits.</p> <p>16 (Deposition concluded at 2:28 p.m.)</p> <p>17 - - - - -</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

		Page 30	Page 32
1	I N D E X		
2	WITNESS: LORI B. McMICHAEL	PAGE	
3	Examination by Mr. Michael C. Petock	2	
4	PLAINTIFF'S DEPOSITION EXHIBITS		
5	NO.	MARKED	
6	34 Receipt, stamped D0908	12	
7	35 Cease and desist letter	15	
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		Page 31	
1	REPLACE THIS PAGE WITH THE ERRATA SHEET AFTER IT HAS BEEN COMPLETED AND SIGNED BY THE DEPONENT.		
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EXHIBIT H

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

WAYNE VAN SCOY,

Plaintiff and
Counterclaim-Defendant,

v.

VAN SCOY DIAMOND MINE OF
DELAWARE, INC., a Delaware Corporation
KURT VAN SCOY, and DONNA VAN SCOY,

Case No. 05-108 (KAJ)

Defendants and
Counterclaim-Plaintiff

**DEFENDANTS' AMENDED AND SUPPLEMENTAL
RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure Defendants Van Scoy Diamond Mine of Delaware, Inc., Kurt Van Scoy, and Donna Van Scoy hereby supplement their 7 June 2005 responses to plaintiff's first set of interrogatories.

GENERAL OBJECTIONS

1. Plaintiff's first set of interrogatories is defective and, hence, invalid, as it fails to comply with Fed. R. Civ. P. 33.
2. Defendants object to each and every interrogatory in its entirety to the extent it seeks information that is not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence.
3. Defendants object to each and every interrogatory to the extent it calls for information that could have been obtained more efficiently by other means of discovery.



))

ii) Defendants withdraw the objection to this contention interrogatory as being premature, as stated above.

iii) Defendants withdraw the objection to this contention interrogatory as being premature, as stated above.

iv) See above.

9. With respect to Defendants' Eighth Affirmative Defense alleging that "Plaintiff's claims are barred by the doctrine of estoppel,"

- i) state all of Defendants' contentions for why Plaintiff's claims are allegedly barred by the doctrine of estoppel,
- ii) state all facts,
- iii) identify all documents and things in support thereof and
- iv) identify the persons most knowledgeable with respect to such facts, documents and things.

Defendants' response:

- i) Defendants object to this interrogatory as being a contention interrogatory when defendants' trial plans are incomplete. Defendants will supplement and respond to this interrogatory once defendants' trial plans are more complete. Plaintiff has known of Defendants' use of the mark at issue for many, many years and has not, until November 2004, objected in any manner to Defendants' use of the mark at issue. Defendants' have relied on plaintiff's inaction and silent respecting Defendants' ongoing use of the mark at issue.
- ii) Defendants object to this interrogatory as being a contention interrogatory when defendants' trial plans are incomplete. Defendants will supplement and respond to

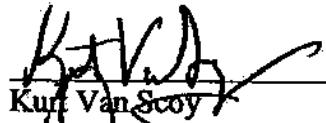
this interrogatory once defendants' trial plans are more complete. Plaintiff has known of Defendants' use of the mark at issue for many, many years and has not, until November 2004, objected in any manner to Defendants' use of the mark at issue. Defendants' have relied on plaintiff's inaction and silence respecting Defendants' ongoing use of the mark at issue. Additionally, Defendants' have worked for 11 years to build goodwill in the name and mark used by Defendants all the time with the knowledge of the plaintiff during which time plaintiff has been silence respecting Defendants' use of the mark at issue.

- iii) Defendants object to this interrogatory as being a contention interrogatory when defendants' trial plans are incomplete. Defendants will supplement and respond to this interrogatory once defendants' trial plans are more complete. See the response to plaintiff's requests for production 11, 14, 15, 16, 35, 36 and 37.
- iv) Kurt Van Scoy

Defendants' Supplemental Response:

- i) Defendants withdraw the objection to this contention interrogatory as being premature, as stated above.
- ii) Defendants withdraw the objection to this contention interrogatory as being premature, as stated above.
- iii) Defendants withdraw the objection to this contention interrogatory as being premature, as stated above.
- iv) See above.

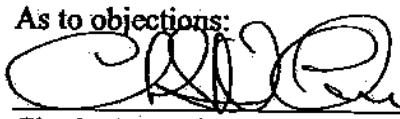
We, the undersigned, hereby declare under 18 United States Code 1001 and penalty of perjury that all answers given above are true and correct to the best of our knowledge, information and belief.


Kurt Van Scy


Donna Van Scy


Kurt Van Scy, President
Van Scy Diamond Mine of Delaware, Inc.

As to objections:


Charles N. Quinn

Fox Rothschild LLP

Attorneys for Defendants and
Counterclaim Plaintiff

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the date written below adjacent to my signature I served the following document

**DEFENDANTS AMENDED AND SUPPLEMENTAL
RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

on Michael C. Petock, Esquire, as an attachment to e-mails addressed to:

MP@IPLaw-Petock.com and
mfpetock@comcast.net

and on John G. Day, Esquire, as an attachment to an e-mail addressed to:

jday@ashby-geddes.com

and by United States Postal Service first class mail, postage prepaid, to the following addresses:

**Michael C. Petock, Esquire
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and

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Ashby & Geddes
222 Delaware Avenue, 17th Floor
P.O. B1150
Wilmington, DE 19899**

FOX ROTHSCHILD LLP



Charles N. Quinn

22 June 2006
(date)